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**CHINA'S MARITIME MILITIAS:
A GRAY ZONE FORCE**

by

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March 2019

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CHINA'S MARITIME MILITIAS: A GRAY ZONE FORCE

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ABSTRACT

In the second decade of the 21st century, the Indo-Pacific region has been witness to increasingly coercive activities by China in the maritime domain. These activities have fundamentally challenged the traditional security architecture, proving to be adverse to the broader interests of nations in the region. However, countering Chinese provocations at sea has proven difficult, as Beijing has effectively manipulated the space between peace and war. That space is commonly referred to as the “gray zone” and is a space in which competitive interactions are managed using state and non-state actors with the ultimate goal of altering the status quo without provoking war. China has demonstrated that gray zone competition in the maritime domain can be a successful strategy with which to achieve its goal: expanding its control of the South China Sea. A critical element in China’s gray zone maritime campaign is the operationalization of its fishing fleet into maritime militias. The Chinese maritime militias have played a prominent role in maritime disputes since 2009 and are responsible for some of the most dangerous interactions at sea. Because they are an abundant array of simple tactical units with strategic effect, it is essential that policymakers and security practitioners understand the impact that these units can have on the region’s long-term security.

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TABLE OF CONTENTS

| | | |
|-----------------|---|---------------|
| I. | CHINA’S MARITIME MILITIAS: A GRAY ZONE FORCE..... | 1 |
| A. | INTRODUCTION..... | 1 |
| B. | SIGNIFICANCE | 2 |
| C. | LITERATURE REVIEW | 4 |
| 1. | Chinese Strategy..... | 4 |
| 2. | Gray Zone Conflict | 8 |
| D. | POTENTIAL EXPLANATIONS AND HYPOTHESES | 13 |
| E. | RESEARCH DESIGN | 14 |
| F. | OVERVIEW AND CHAPTER OUTLINE | 15 |
| II. | CHINA’S SEAPOWER EVOLVED: EXPANSION, MODERNIZATION, AND MOBILIZATION | 17 |
| A. | INTRODUCTION: GRAND STRATEGY..... | 17 |
| B. | PRC, CCP, AND PLAN AT SEA 1949–1989: CONSTRAINED EARLY, DEVELOPING LATE..... | 18 |
| C. | 1990 TO PRESENT: INFORMATIZATION, MODERNIZATION, AND MOBILIZATION | 21 |
| D. | CHINA’S MARITIME PERSPECTIVE: SOVEREIGNTY, MARITIME RIGHTS, AND THREE WARFARES..... | 25 |
| E. | CONCLUSION | 28 |
| III. | THE GRAY ZONE – MARITIME MILITIAS OPERATIONALIZED..... | 31 |
| A. | THE GRAY ZONE | 31 |
| 1. | Why States Choose A Gray Zone Strategy | 32 |
| 2. | Historical Perspective | 33 |
| 3. | Defining the Gray Zone | 34 |
| 4. | Gray Zone Characteristics | 35 |
| 5. | Gray Zone Tactics: Coercion and/or Fait Accompli | 38 |
| B. | PEOPLE’S ARMED FORCES MARITIME MILITIAS – A FORCE MULTIPLIER..... | 40 |
| 1. | Defining China’s Maritime Militias: Tactical Force, Strategic Effect | 41 |
| 2. | Dual-Track Command and Control..... | 43 |
| 3. | Leading the Way: Hainan Island Militias | 45 |
| C. | CONCLUSION: CHINA’S MARITIME MILITIAS A GRAY ZONE FORCE | 46 |

| | | |
|------------|---|------------|
| IV. | CASE STUDIES – THE GRAY ZONE AT SEA..... | 49 |
| A. | CASE 1: INTIMIDATION OF THE USNS IMPECCABLE – 2009..... | 49 |
| | 1. Overview | 49 |
| | 2. Contextual Analysis: Freedom of the Oceans – Exclusive Economic Zone (EEZ) Rights | 50 |
| | 3. Event Timeline | 52 |
| | 4. Findings and Implications..... | 56 |
| B. | CASE 2: SCARBOROUGH SHOAL STANDOFF – 2012 | 57 |
| | 1. Overview | 57 |
| | 2. Contextual Analysis: Claimant Dispute – Beijing vs. Manila | 58 |
| | 3. Event Timeline | 60 |
| | 4. Findings and Implications..... | 68 |
| C. | CASE 3: CHINA-VIETNAM HAIYANG SHIYOU 981 OIL RIG STANDOFF – 2014 | 70 |
| | 1. Overview | 70 |
| | 2. Contextual Analysis: Claimant Dispute – Beijing vs. Hanoi | 71 |
| | 3. Event Timeline | 73 |
| | 4. Findings and Implications..... | 78 |
| V. | COUNTERING MARITIME MILITIAS IN THE GRAY ZONE | 81 |
| A. | CONCLUSION | 81 |
| B. | POLICY RECOMMENDATIONS | 83 |
| | 1. Accept Risk in Great Power Competition | 83 |
| | 2. Create a Coalition at Sea – Combined Task Force (CTF) Pacific..... | 84 |
| | 3. Strengthen Institutions – Safeguard Against Chinese Assertiveness..... | 86 |
| | 4. Evolve U.S. Military Tactics, Training, and Procedures – For the Gray 21st Century | 87 |
| | LIST OF REFERENCES..... | 91 |
| | INITIAL DISTRIBUTION LIST | 105 |

LIST OF ACRONYMS AND ABBREVIATIONS

| | |
|--------|--|
| AFP | Armed Forces of the Philippine's |
| AGI | Auxiliary, General Intelligence |
| ASEAN | Association of Southeast Asian Nations |
| ASW | Anti-Submarine Warfare |
| BRP | Ship of the Republic of the Philippines |
| CCG | Chinese Coast Guard |
| CCP | Chinese Communist Party |
| CMC | Central Military Commission |
| CMS | Chinese Marine Surveillance |
| CNOOC | China National Offshore Oil Corporation |
| CNPC | Chinese National Petroleum Corporation |
| CPA | Closest Point of Approach |
| DDG | Guided Missile Destroyer |
| DWP | Defense White Paper |
| ECS | East China Sea |
| EEZ | Economic Exclusive Zone |
| FLEC | Fishing Law Enforcement Command |
| ISAB | US Department of State's International Security Advisory Board |
| LSG | Leading Small Group |
| MFA | Ministry of Foreign Affairs |
| MLE | Maritime Law Enforcement |
| MPRA | Maritime Patrol Reconnaissance Aircraft |
| NOLCOM | Northern Luzon Command |
| NSS | National Security Strategy |
| PAFMM | People's Armed Forces Maritime Militia |
| PLA | People's Liberation Army |
| PLAAF | People's Liberation Army Air Force |
| PLAGF | People's Liberation Army Ground Force |
| PLAN | People's Liberation Army Navy |
| PLARF | People's Liberation Army Rocket Force |

| | |
|--------|--|
| PLASSF | People's Liberation Army Strategic Support Force |
| PRC | People's Republic of China |
| SCS | South China Sea |
| SOA | State Oceanographic Administration |
| SOCOM | United States Special Operations Command |
| SSBN | Ballistic Missile Submarine |
| UNCLOS | United Nations Convention on the Law of the Sea |
| USNS | United States Naval Ship |
| USS | United States Ship |

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— LT Jeremy Oliver, USN

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I. CHINA’S MARITIME MILITIAS: A GRAY ZONE FORCE

A. INTRODUCTION

The People’s Liberation Army (PLA) is the armed forces of the People’s Republic of China (PRC) and the Chinese Communist Party (CCP). The PLA comprises five branches: Ground Force (PLAGF), Navy (PLAN), Air Force (PLAAF), and the recently added Rocket Force (PLARF) and Strategic Support Force (PLASSF). In addition to those branches, a significant element of China’s armed forces includes the mass organization of civilians into militia units. Of particular interest is the recent increase in the use of maritime militias, especially within gray zone conflict, where activities can be both competitive and coercive but fall below the threshold for war. Critical to this thesis will be identifying the principle drivers that have prompted the CCP and PLA to employ a maritime militia force that can potentially influence future warfighting and undermine the United States’ competitive advantage within the Pacific Theater. This research should, in turn, answer the question: How does China’s maritime militias’ participating in gray zone conflict impact international relations?

Understanding the PRC’s strategic goals and policy decisions informs why Beijing would use maritime militias in combination with its military. It can be argued that almost all nations’ military strategies are a reflection of the governing parties’ political aims, and, therefore, that military strategy is a nation’s strategy to employ force. The interrelationship between policy and strategy is a critical aspect to consider when analyzing any nation. That is to say that while the PLA is the armed forces of China, it is more precisely the armed forces of the Chinese Communist Party. This distinction is important because it may produce insights into the PRC’s strategic direction that might otherwise go unobserved. The strategic goals of the PRC include the maintenance of domestic stability, prevention of Taiwanese secession, border defense, the defense of China’s maritime claims and economic interests, and the safeguard of Chinese interests and citizens abroad.¹

¹ Timothy R. Heath, Kristen Gunness, and Cortez A. Cooper, *The PLA and China’s Rejuvenation: National Security and Military Strategies, Deterrence Concepts, and Combat Capabilities*, RR-1402-OSD (Santa Monica, CA: RAND Corporation, 2016), 3–7.

Critical in the development of a response to the research question is understanding Chinese political and military strategy, defining what gray zone conflict is, and how maritime militias occupy that zone. This inquiry raises two sub-questions. First, what promotes China's use of maritime militias in operations that support strategic objectives? Second, how does China use the maritime militias to prevent an escalation of regional conflict? Answering the sub-questions requires a brief historical review of the PLA from the onset of the Chinese revolution through to present day. Furthermore, an analysis of Chinese political and military strategies will provide an ideological as well as an institutional framework with which to characterize maritime militias in the hierarchy. Analyzing gray zone conflict, reviewing Chinese strategy, and examining tactical case studies identifies various historical, regional, and international factors that have shaped the CCP's and PLA's decision to use maritime militias.

B. SIGNIFICANCE

This research is critical for three reasons. First, it supports the United States National Security Strategy (NSS), specifically in the areas of the South China Sea (SCS) and East China Sea (ECS). China's trajectory has put it on a competitive path with the United States and has substantially affected the international community and China's regional neighbors. The most recent NSS indicates that stability in the Pacific is of paramount concern and contends that "China ... want[s] to shape a world antithetical to U.S. values and interests. China seeks to displace the United States in the Indo-Pacific region...and reorder the region in its favor."² One of the most important areas where Beijing is seeking to displace the United States is in the SCS and ECS. The Department of Defense (DoD) explains the contentious issues surrounding the South and East China Seas by asserting that "China's expansive interpretation of jurisdictional authority beyond territorial seas and airspace causes friction with U.S. forces and treaty allies operating in

² Donald Trump, "National Security Strategy of the United States of America" (Washington, DC: White House, December 1, 2017), <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>, 25.

international waters and airspace in the region and raises the risk of inadvertent crisis.”³ More specifically, China uses gray zones in these regions to impose its authority and challenge U.S. forces.

Second, this thesis elucidates the security concerns of other regional actors and partners. Many regional nations view the PRC as a clear and present danger due to China’s assertive actions throughout the region, but more specifically within the maritime domain. Beijing’s public advocacy for maritime territorial sovereignty and resurgence of militia mobilization stands to threaten individual states and peoples, as well as the region. China has challenged the territorial sovereignty of Japan, Taiwan, Vietnam, the Philippines, Brunei, Malaysia, and Indonesia, often in direct contradiction with international law. The NSS asserts that “sustaining favorable balances of power will require a strong commitment and close cooperation with allies and partners because allies and partners magnify U.S. power and extend U.S. influence.”⁴ Partner nation cooperation and coordination will be critical in “resisting authoritarian trends, contesting radical ideologies, and deterring aggression,” especially those activities that occur below the level of war.⁵ Understanding political aims and mechanisms that inhibit unintended escalation is one of the most significant factors in developing strategies with our allies to counter near-peer competition and gray zone competition.

Third, Chinese activities occurring within the gray zone significantly diminish the capacities of both the United States and regional partners to compete with growing Chinese influence. Chairman of the Joint Chiefs of Staff General Dunford recently remarked that the term itself—gray zone—should carry with it a greater significance. General Dunford explained, “we are talking about ... a competition with an adversary that has a military dimension, but the adversary knows exactly what the threshold is for us to take decisive

³ Department of Defense, “The Asia-Pacific Maritime Security Strategy: Achieving U.S. National Security Objectives in a Changing Environment” (Washington, DC: Department of Defense, July 27, 2015), https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF, 14.

⁴ Trump, *National Security Strategy*, 45.

⁵ Trump, *National Security Strategy*, 45.

military action. So, they operate below that level.”⁶ For General Dunford, this is “one of the most significant challenges” that the U.S. military and DoD are facing today.⁷ Extrapolating from General Dunford’s comments, one can argue that gray zone competition is one of the most noteworthy problems facing the international community.

A clear assessment of factors that have contributed to China’s development of maritime militias as an operationalized gray zone force contributes significantly to creating counter-strategies that will mitigate China’s regional and global hegemonic goals. Moreover, this thesis provides a framework with which military leaders and policymakers can more accurately analyze and classify instances of conflict at the strategic, operational, and tactical levels

C. LITERATURE REVIEW

1. Chinese Strategy

a. *Revolution to Asymmetric Exploitation*

Early CCP and PLA strategies were dominated by mobile guerrilla tactics that sought to identify weaknesses in conventional forces, thus capitalizing on asymmetric vulnerabilities. This type of warfare addresses a weakness of the unconventional forces regarding capabilities, manpower, and equipment. The weakness in force coupled with the prolonged nature of unconventional warfare can lead to institutional biases that favor more defensive capabilities over offensive proficiencies when combatting potential threats. Paul H.B. Godwin asserts “China’s defense strategies and policies have focused primarily on preparing the PLA for a possible confrontation with vastly superior adversaries.”⁸ Therefore, strategy was developed from a self-imposed position of subordination and weakness. Godwin further explains, “much of the continuity found in China’s military

⁶ Joseph Dunford, “Meeting Today’s Global Security Challenges with General Joseph F. Dunford,” March 29, 2016, <http://www.jcs.mil/Media/Speeches/tabid/3890/Article/707418/gen-dunfords-remarks-and-qa-at-the-center-for-strategic-and-international-studi.aspx>.

⁷ Dunford, “Meeting.”

⁸ Paul H. B. Godwin, “Change and Continuity in Chinese Military Doctrine, 1949–1999,” *Chinese Warfighting: The PLA Experience Since 1949*, eds. Mark A. Ryan, David Michael Finkelstein, and Michael A. McDevitt, (Armonk, N.Y: M.E. Sharpe, 2003), 23.

doctrine, strategy, and concepts of operations ... is to be found in the enduring requirement to defeat superior opponents.”⁹ Thus, China’s early post-1949 strategy grew from a presumed position of weakness, maintaining a primarily defensive posture due to the “inferiority in the material means of war.”¹⁰

However, since 1988 the CCP and PLA have recognized shifts in international warfare necessitating a doctrinal alteration from defensive to offensive. The defensive to offensive paradigm transference was primarily a result of the U.S. invasion of Iraq in 1991. CCP and PLA observed the importance of having a highly mobile and technologically capable force. The focus was not on deterring or countering an invasion but rather “countering multiple forms of conflicts from different adversaries.”¹¹ Taylor Fravel asserts that by 1993, the “PLA rewrote its operational doctrine around joint operations, ... reorganized through two downsizings to increase effectiveness ... [and] issued a new army-wide training program.”¹² The massive institutional changes in 1993 formed the basis of an offensive strategy that continues to evolve to this day and was a key element in the 2014 strategy, known as “winning informationalized local wars.”¹³

According to Fravel, the most recent changes in 2004 and 2014 are considered to be minor and are characterized as refinements. However, one significant implication is that the two minor shifts indicate a continued commitment to offensive capabilities as they are primarily considered refinements of the 1993 strategy. In both the 2004 and 2014 strategies, the PLA advanced joint operations to integrated joint operations. The distinction, which may appear benign, is an incredibly significant evolution in military capability and doctrine. Integrated joint operations in the maritime domain employ units across multiple lines of operations and is referred to by Chinese strategists as the echelon defense system. Ryan Martinson asserts, “echelon defense is an approach for using sea power to defend and

⁹ Godwin, “Change and Continuity,” 23.

¹⁰ Godwin, “Change and Continuity,” 23.

¹¹ M. Taylor Fravel, “Shifts in Warfare and Party Unity: Explaining China’s Changes in Military Strategy,” *International Security* 42, no. 3 (2017): 73–74.

¹² Fravel, “Shifts in Warfare,” 74.

¹³ Fravel, “Shifts in Warfare,” 51.

advance China's maritime claims. It employs a division of labor between China's two primary sea services, leveraging the particular advantages of each."¹⁴ The definition provided in Martinson's work refers to China's navy and coast guard; however, the maritime militias have proven to be a critical component of the echelon defense strategy.

The echelon strategy is employed by Beijing in order to exploit two asymmetries in the maritime domain. This includes China's overwhelming military superiority of regional neighbors and a greater steadfastness to the cause of maritime sovereignty against the United States and Japan. Martinson stresses that "China's echelon defense approach exploits these two asymmetries while remaining within the constraints of Chinese grand strategy, what PRC propagandists call 'peaceful development.' Beijing desires to leverage its growing power to alter the status quo in its favor."¹⁵ The echelon defense strategy asymmetric exploitations are an example of a gray zone tactic. When considering the echelon defense approach, it is important to understand it as a nested tactic in China's broader Three Warfares strategy.

The Three Warfares—Psychological, Media, Legal—is Beijing's systematization of national soft-power instruments designed to achieve political aims short of war; as such, it provides an additional conceptual framework within which China makes use of gray zone tactics. Sangkuk Lee contends that "the Three Warfares at a national strategic level aim to protect (or expand) national interests ... [and] the military strategic Three Warfares refer to activities for implementing military strategy and for preventing ... wars."¹⁶ The Three Warfares carries with it specific implications in both the strategic and operational maritime domain, specifically with regards to the Law of the Sea and the employment of paramilitary forces. James Goldrick asserts, "in utilizing the 'Three Warfares' in the maritime domain, China would either be attempting to limit or confine American naval operations to achieve direct strategic and operational effects, or to achieve an advantage in the court of world

¹⁴ Ryan D. Martinson, *Echelon Defense: The Role of Sea Power in Chinese Maritime Dispute Strategy*, China Maritime Study, No. 15 (Newport, Rhode Island: Naval War College Press, 2018), 27.

¹⁵ Martinson, *Echelon Defense*, 3.

¹⁶ Sangkuk Lee, "China's 'Three Warfares': Origins, Applications, and Organizations," *Journal of Strategic Studies* 37, no. 2 (February 23, 2014): 204, <https://doi.org/10.1080/01402390.2013.870071>

opinion, both popular and expert.”¹⁷ The “Three Warfares” is an important element of the Chinese stratagem that seeks to undermine the adversary’s resolve.

b. Territorial Sovereignty & Maritime Strategy

China’s position has remained consistent in regard to the East and South China Seas going back several decades; however, Chinese policies and activities have grown more intense and coercive since 2008, in part due to the global financial crisis. Fundamentally, the Chinese believe that the contested areas of the maritime domain are irrefutably extensions of their territorial sovereignty, which, they argue, is supported by international law. Ryan Martinson asserts that “Chinese leaders believe that the United Nations Conventions on the Law of the Sea (UNCLOS) entitles them to jurisdictional rights over three million square kilometers of maritime space, often referred to as China’s ‘blue national territory.’”¹⁸ Furthermore, Martinson explains, “China uses sea power to defend and advance its position in two major types of maritime disputes,” territorial rights or maritime rights.¹⁹ Central to defending the “blue national territory” has been the PLA Navy, Coast Guard, and, more recently, the maritime militias.

Scholars mostly agree that China’s maritime strategy reflects an increasing emphasis on the creation of a blue water force capable of global power projection. This idea is reinforced by Katherine Morton, who explains that “China’s maritime renaissance has been a long time in the making—shaped by centuries-long internal struggles over its national identity as a continental power.”²⁰ China’s naval modernization ultimately serves multiple lines of strategic effort and is not limited to traditional naval force generation. As Martinson explains, Chinese leaders have recognized that increasing China’s share of the maritime commons increases their strategic decision-making space and reduces the threat

¹⁷ James Goldrick, “The Three Warfares in the Maritime Domain: A Look Ahead,” in *China: The Three Warfares*, ed. Stefan Halper (Cambridge: University of Cambridge, 2013), 300–314.

¹⁸ Martinson, *Echelon Defense*, 27.

¹⁹ Martinson, *Echelon Defense*, 4–6.

²⁰ Katherine Morton, “China’s Ambition in the South China Sea: Is a Legitimate Maritime Order Possible?,” *International Affairs* 92, no. 4 (July 1, 2016): 909–40, <https://doi.org/10.1111/1468-2346.12658>, 931.

posed by the United States. Therefore, “controlling island frontiers hundreds of miles from the mainland coast and the waters between them offers a means to alleviate this vulnerability.”²¹ An important aspect of naval modernization includes the evolution of maritime militias constituted from China’s vast civilian fishing fleet. Hongzhou Zhang stresses, “there is no denial that the Chinese government considers a strong fishing fleet as integral to sea power and it has strengthened the fishermen’s capacity for protecting the country’s maritime interest in disputed waters.”²² Maritime modernization and mobilization efforts in China can be considered a whole-of-government process, employing non-traditional sectors in national security concerned with maritime rights and sovereignty.

2. Gray Zone Conflict

a. Historic Warfare

The succeeding section acknowledges the historical ubiquity of gray zone conflict and the contemporary trend to more thoroughly understand its implications in international relations. Gray zone conflict is not inherently a new form of warfare. Although the term gray zone is more etymologically recent, the concept is as old as civilization. History is replete with examples of gray zone conflict, from the Peloponnesian war to the Napoleonic era, WW II, the Vietnam War, the continuing global war on terrorism, and, more recently, to the Russian incursion into Crimea. Van Jackson asserts that “defense analysts and policymakers now refer routinely to the challenges of operating in a ‘gray zone’ of conflict, which coincides with recent scholarly efforts to analyze more rigorously conflicts short of traditional coercion or war.”²³ As a concept and framework, gray zone conflict is an invaluable model by which to understand state actions that attempt to manage escalation in an effort to achieve a political aim short of war.

²¹ Martinson, *Echelon Defense*, 8.

²² Hongzhou Zhang, “Chinese Fishermen in Disputed Waters: Not Quite a ‘People’s War,’” *Marine Policy* 68 (June 2016): 67, <https://doi.org/10.1016/j.marpol.2016.02.018>.

²³ Van Jackson, “Tactics of Strategic Competition: Gray Zone, Redlines, and Conflicts before War,” *Naval War College Review; Washington* 70, no. 3 (June 22, 2017): 39.

b. *Gray Zone Defined*

Given the recent appearance of the term gray zone, the academic community has not settled on one definition. Van Jackson asserts that the “broadest and most consistent use of the term seems to describe what amounts to a realpolitik state of competition short of war.”²⁴ A recently published report by the U.S. State Department holds that “perhaps the most widely used definition of gray zone conflict is that established by the U.S. Special Operations Command (SOCOM): gray zone challenges are defined as competitive interaction among and within state and non-state actors that fall between the traditional war and peace duality.”²⁵

Furthermore, in a recent study released by Center for Strategic and International Studies, the authors offer the definition that “a gray zone strategy [is] an effort or series of efforts beyond steady-state deterrence and assurance that attempts to achieve one’s security objectives without resort to direct and sizeable use of force. In engaging in a gray zone strategy, an actor seeks to avoid crossing a threshold that results in war.”²⁶ Ultimately, the most salient point of the definitions is that gray zone competition and coercion are an amalgamation of strategies that attempt to remain below the inception point of war. Michael Mazaar argues that “gray zone strategies pursue political objectives through calculated and integrated campaigns to achieve specific and often quite ambitious goals...but they employ mostly non-military or non-kinetic tools.”²⁷

c. *Gray Zone Characteristics*

Three key features are identified in the literature concerning gray zone conflict. Michael Mazarr contends that states’ “dependence on global trade and markets, along with

²⁴ Jackson, “Tactics,” 40.

²⁵ International Security Advisory Board, “Report on Gray Zone Conflict” (Washington, DC: Department of State, January 3, 2017), 1, <https://www.state.gov/documents/organization/266849.pdf>.

²⁶ Michael Green et al., *Countering Coercion in Maritime Asia: The Theory and Practice of Gray Zone Deterrence*, 287 vols. (Washington, DC: Center for Strategic and International Studies, 2018), 21, https://csis-prod.s3.amazonaws.com/s3fs-public/publication/170505_GreenM_CounteringCoercionAsia_Web.pdf?OnoJXfWb4A5gw_n6G.8azgEd8zRIM4wq

²⁷ Michael J. Mazarr, “Struggle in the Gray Zone and World Order,” War on the Rocks, December 22, 2015, <https://warontherocks.com/2015/12/struggle-in-the-gray-zone-and-world-order/>.

the fear of escalation and other constraints, make them anxious to achieve their goals with techniques short of major conflict—more gradual, less violent, and less obvious.”²⁸ The characteristics identified by Mazarr are described in Michael Green’s study as “asymmetry, ambiguity, and incrementalism.”²⁹ Green asserts that states will employ strategies that use all of the aforementioned characteristics, or a combination of them, to achieve their goals. SOCOM imputes gray zone conflict with the same qualities asserted by Green and Mazarr. SOCOM asserts that the gray zone is “characterized by ambiguity about the nature of the conflict, opacity of the parties involved, or uncertainty about the relevant policy and legal frameworks.”³⁰ Asymmetric tactics can be employed across the spectrum of national instruments of power—diplomacy, information, military, and economy. Often times, states employ these instruments in coordination to amplify the coercive effects in an attempt to compel an adversary to alter decision-making. Ambiguity, like asymmetry, can take advantage of various institutional and psychological factors that can aggravate and ultimately undermine response mechanisms of competing states. Ambiguity presents adversaries with situations that do not conform to standard operating procedures (as defined and practiced by large organizations such as militaries and law enforcement) and forces them to reconsider standard courses of action. The characteristics combined foster environments in which a belligerent state can gradually alter the status quo. Thus, an incremental approach is less likely to catapult any dispute or conflict past the threshold that would otherwise result in war. These factors are what make gray zone conflict difficult to counter but also incredibly advantageous to revisionist states attempting to manage escalation and reduce risk.

d. People’s Armed Forces Maritime Militias

This last section recognizes China’s continued military modernization efforts in the previous three decades. The broad scholarly consensus is that China has been in the process of military modernization for more than 25 years. Modernization efforts have primarily

²⁸ Mazarr, “Struggle in the Gray Zone.”

²⁹ Green et al., *Countering Coercion in Maritime Asia*, 29.

³⁰ Philip Kapusta, “U.S. Special Operations Command White Paper: The Gray Zone” (MacDill Air Force Base: USSOCOM, September 9, 2015), 1.

come as a result of China's observations concerning Desert Storm in 1991, the subsequent strategy shift to one of "winning local wars under conditions of informatization," and the Third Taiwan Straits Crisis in 1996.³¹ These events have ultimately led the Chinese to create one of the largest naval forces in the world. However, Michael Green asserts that policymakers and national security professionals have primarily been myopic, concerning themselves solely with China's high-end capabilities. Green argues that "China's low-level coercion and nonmilitary capabilities are increasingly important as Beijing employs paramilitary forces to gradually alter the status quo."³² Within the maritime domain, China's paramilitary forces take the form of maritime militias.

The maritime militias serve as what is commonly referred to as China's "Third Sea Force." Andrew Erickson briefly explains China's military composition and PLA's three branches, each with a naval component:

The People's Liberation Army (PLA) contains the PLA Navy (PLAN); the People's Armed Police, which increasingly leads China's Maritime Law Enforcement (MLE) forces, including the China Coast Guard; and the Militia, which contains a growing proportion of sea-based units, the People's Armed Forces Maritime Militia (PAFMM). Each of China's three sea forces is the world's largest of its type.³³

Chinese maritime militias are internationally atypical, Vietnam being the only other country in the world to have them. The U.S. Navy War College's China Maritime Institute describes China's PAFMM as "an armed mass organization primarily comprising mariners working in the civilian economy who are trained and can be mobilized to defend and advance China's maritime territorial claims, protect 'maritime rights and interests,' and support the PLA Navy (PLAN) in wartime."³⁴ China's fishing fleet affords its leaders with

³¹ Green et al., *Countering Coercion in Maritime Asia*, 10.

³² Green et al., *Countering Coercion in Maritime Asia*, 11.

³³ Andrew S. Erickson, "Understanding China's Third Sea Force: The Maritime Militia," *Fairbank Center Blog* (blog), September 8, 2017, <https://medium.com/fairbank-center/understanding-chinas-third-sea-force-the-maritime-militia-228a2bfbbedd>.

³⁴ Conor M. Kennedy and Andrew S. Erickson, "China's Third Sea Force, The People's Armed Forces Maritime Militia: Tethered to the PLA," *China Maritime Report*, no. 1 (March 2017): 2, <https://doi.org/mar>.

access to the most extensive collection of civilian fishermen and vessels in the world. According to an analyst reviewing 2016 Global Fishing Watch data:

China has the world's largest and farthest-ranging fishing operation, outstripping the next 10 biggest combined, according to what researchers say is the most comprehensive and data-intensive study on the subject. Ships from China amassed approximately 17 million hours of fishing in 2016, mostly off the southern coast of their home country.³⁵

The massive fishing fleet serves as a first layer of defense, is a significant force multiplier in the near seas of China, and forms the foundation of the militia units. However, not all Chinese fishermen are members of a militia. The China Maritime Studies Institute report reinforces this idea. The authors contend that “China typically uses its capabilities in concert, with fishermen and maritime militia as the first line of defense, the China Coast Guard as the second, and the military as a force of last resort.”³⁶ Of note, maritime militia units by overall percentage are considered a relatively small portion of the entire fishing fleet. Furthermore, militia units receive additional state-sponsored and -funded training and equipment, enabling coordination with PLAN and MLE units. China's strategy and use of militias have inevitably led to an increased number of aggressive interactions with all states operating in the East and South China Seas. Michael Green concludes that “civilian fishing trawlers operating like a maritime militia were responsible for the more serious harassment.”³⁷

There is a relatively large body of scholarly work that agrees that the maritime militias are positioned to support Chinese strategic goals. This is echoed by Kennedy and Erickson, who argue that the maritime militia “contributes to China's overall national defense mobilization work and ... [are] a unique component of China's armed forces armed

³⁵ Gerry Doyle, “Chinese Trawlers Travel Farthest and Fish the Most: Study,” *Reuters*, February 22, 2018, sec. Environment, <https://www.reuters.com/article/us-global-fishing/chinese-trawlers-travel-farthest-and-fish-the-most-study-idUSKCN1G62M4>.

³⁶ Green et al., *Countering Coercion in Maritime Asia*, 12.

³⁷ Green et al., *Countering Coercion in Maritime Asia*, 65.

forces that are both separate from, and bound to, the PLA.”³⁸ The relationship is endemic of the echelon defense strategy employed by Beijing’s military elites.

This is a unique relationship that is reinforced by actions taken in 2016 when President Xi reorganized the PLA. Fanell and Gershaneck explain, “Xi announced that the Central Military Commission (CMC) would now be in charge of the ‘overall administration of the PLA, People’s Armed Police, militia, and reserves’ with new theater commands focusing on combat preparedness.”³⁹ Centralization of authority under the CCP gives the leadership greater control of the escalatory process, limiting the potential for miscalculation. By bringing the militias under CCP authority, one can infer that future actions of the militias are sanctioned by senior CCP leadership. The militias are likely to continue to play an essential role, but not because of the reforms. Rather, because gray zone tactics are attractive to the PRC (not just the CCP or Xi Jinping) to further its national security interests in territorial aggrandizement without engaging in provocations that might escalate to war.

D. POTENTIAL EXPLANATIONS AND HYPOTHESES

Chinese expansionism has taken advantage of a space in which China’s adversaries are unprepared to compete, leveraging ambiguity, incrementalism, and asymmetry. This is the foundation for the first hypothesis, which is that maritime militia utilization frustrates adversarial actions, in part due to the ambiguity and asymmetry afforded by their status as civilians. The frustration is the result of the civilian status of the maritime militias in disputes that are traditionally dominated by state components like the coast guard or navy. Typical state military and law enforcement organizations have rigorous standard operating procedures and legal limitations that guide responses and actions to civilian presence. China’s maritime militias take advantage of these institutional limitations as well as the ambiguity conferred by their status as civilian fishermen. Neither the U.S. nor its regional partners are equipped to contend with China in the gray zone. The Chinese have

³⁸ Kennedy and Erickson, “Tethered to the PLA,” 5.

³⁹ James E Fanell and Kerry K Gershaneck, “White Warships and Little Blue Men,” *Project 2049 Institute*, no. The Looming “Short, Sharp War” in the East China Sea (March 30, 2018): 15.

maneuvered within a space that does not conform with current international norms or the rules-based order.

In the 2018 report to Congress concerning China, U.S. DoD identified six primary Chinese strategic objectives: “the perpetuation of CCP rule, maintenance of domestic stability, economic growth and progress, defense of national sovereignty and territorial integrity, status as a great power and return to regional preeminence, and safeguard China’s interests internationally.”⁴⁰ For the Chinese to achieve these strategic objectives, they need to be in a continuous state of shaping operations within the regional environment. JP 3–0, Joint Operations, defines shaping operations as “activities [that] help set conditions for successful theater operations. They help identify, deter, counter, and/or mitigate competitor and adversary actions that challenge country and regional stability.”⁴¹ Thus, continually maintaining shaping operations enables the Chinese to maintain activities that advance their strategic goals while limiting the potential for traditional conflict. The second hypothesis, then, is that maritime militia activities aim to prevent an escalation of regional conflict by maintaining continuous shaping operations that remain below adversary redlines, these methods of avoiding all-out war could either benefit or damage international relations.

E. RESEARCH DESIGN

The critical first step in this thesis is to provide a brief history regarding the strategic evolution of Chinese military and political strategy. The focus of this effort will be to address the following essential elements: China’s naval evolution from 1949 to present and China’s maritime perspective in regard to sovereignty, maritime rights, and the Three Warfares. Having established the strategic parameters, the thesis will proceed to an analysis of gray zone conflict and the advent of Chinese maritime militias. Finally, using a

⁴⁰ Office of the Secretary of Defense, “Annual Report to Congress: Military and Security Developments Involving the People’s Republic of China 2017” (Washington, DC: Department of Defense, May 15, 2017), 7, https://www.defense.gov/Portals/1/Documents/pubs/2017_China_Military_Power_Report.PDF.

⁴¹ Joint Chiefs of Staff, *Joint Publication 3-0: Joint Operations*, JP-3 (Washington, DC: Joint Chiefs of Staff, 2018), V-9.

qualitative case study methodology, the thesis concludes that maritime militia participation in gray zone conflict below the level of warfare effects international relations by violating norms associated with maritime law and the principle of distinction associated with civilian status in an armed conflict.

In addition to the qualitative case study analysis, the thesis reviews a variety of primary sources concerning Chinese political and military strategy, gray zone conflict, and, more recently, the advent of maritime militias. In addition to scholarly information, the thesis draws upon a litany of government documents as well as secondary sources, including open-source information, which provides an additional perspective concerning the actions of international actors.

F. OVERVIEW AND CHAPTER OUTLINE

Chapter II is strategically focused, examining China's evolving maritime consciousness from 1949 to present. Additionally, it includes a discussion of the PRC's most recently articulated military and political strategies and, broadly, how maritime militias are factored into each. Furthermore, the chapter will address China's position in regard to territorial sovereignty and maritime rights. Chapter III will analyze the operationalization of the maritime militias within the gray zone. The chapter expands on the concept of gray zone conflict and examines the maritime militias specific to their application as a force multiplier, as China's third sea force. Chapter IV transitions to tactical case studies: 2009 intimidation of the USNS Impeccable, 2014 Second Thomas Shoal Clash, and 2014 Vietnam oil rig dispute. These cases demonstrate Chinese strategies for employing maritime militias within the gray zone. Additionally, the case study analysis reveals how the maritime militias operate tactically in conjunction with other Chinese maritime platforms. Chapter V concludes the thesis by presenting the thesis findings and recommendations. Recommendations include how the United States can develop opposing strategies that counter gray zone competition, thus increasing maneuver space for U.S. forces.

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II. CHINA'S SEAPOWER EVOLVED: EXPANSION, MODERNIZATION, AND MOBILIZATION

Understanding the PRC's maritime motivations can expose the factors that have led to the expansion of naval operations, the modernization of China's naval components, and the increase in mobilization efforts, specifically of the maritime militias. The chapter consists of three sections: PRC, CCP, and PLAN at Sea 1949–1989, 1990 to present (Informatization, Modernization, and Mobilization), and China's Maritime Perspective. The chapter addresses the historical context and legacies that have resulted in the evolution of naval forces and strategies that support PRC expansionist political aims. Consequently, this chapter answers the first sub-question: What promotes China's use of maritime militias in operations that support strategic objectives?

A. INTRODUCTION: GRAND STRATEGY

Chinese leaders and the Beijing elite, led by President Xi Jinping, have recently invoked the idea of the “Chinese Dream,” which is a framework for national renaissance. During a speech in 2012, Xi Jinping stated that the Chinese Communist Party (CCP) has a responsibility “in making continued efforts to achieve the great renewal of the Chinese nation, make the Chinese nation stand rock-firm in the family of nations, and make even greater contribution to mankind.”⁴² Although the Chinese Dream and Xi's statement are not the affirmations of a codified grand strategy, they are in keeping with the broader agreement of the scholarly and national security communities as to what China's grand strategy is. As Michael Swaine and Ashley Tellis explain, that grand strategy is “the preservation of domestic order and well-being in the face of different forms of social strife, ... defense against persistent external threats to national sovereignty and territory, ... [and the] attainment and maintenance of geopolitical influence.”⁴³

⁴² “Transcript: Xi Jinping's Speech at the Unveiling of the New Chinese Leadership (Video),” South China Morning Post, November 15, 2012, <https://www.scmp.com/news/18th-party-congress/article/1083153/transcript-xi-jinpings-speech-unveiling-new-chinese>.

⁴³ Michael D. Swaine and Ashley J. Tellis, *Interpreting China's Grand Strategy: Past, Present, and Future*, MR / Rand AF 1121 (Santa Monica, CA: Rand, 2000), x.

Swaine and Tellis's characterization of PRC grand strategy carries within it the implicit task to defend China's maritime territory and sovereignty. China's most recent Defense White Paper (DWP) in 2015 affirms the significance of the maritime domain in China's wider national security calculus and grand strategy, stating that "the traditional mentality that land outweighs sea must be abandoned and great importance has to be attached to managing the seas and oceans and protecting maritime rights and interests."⁴⁴ Given the strategic shift and emphasis on the maritime domain by the Chinese in recent years, it is critical for policymakers and military leaders to understand how China's maritime presence and, more specifically, how maritime militias can potentially undermine the status quo and subvert international norms.

B. PRC, CCP, AND PLAN AT SEA 1949–1989: CONSTRAINED EARLY, DEVELOPING LATE

From the beginning, Chinese naval strategy has been dominated by the concept of active defense in support of continental territory. Post-1949 PRC maritime strategy was an amalgamation of Soviet tactics and Mao's people's war theory. Huang contends that "the maritime military strategy of people's war at sea was the foundation of Maoist China's coastal defense. Namely, it was guerrilla warfare taken to the sea."⁴⁵ The maritime defense strategy of early years was predicated on both the threat of invading Kuomintang military forces from Taiwan, which routinely harassed and attacked PRC fisherman and coastal infrastructure in the 1950s, and defending against imperial threats from the sea. The first PLAN Commander, General Zhang Aiping, stated that the navy was required "to safeguard China's independence, territorial integrity and sovereignty against imperialist aggression, ... to destroy the blockade of liberated China, to support the land and air forces of the People's Liberation Army in defense of Chinese soil and to wipe out all remnants of reactionary forces."⁴⁶ Aside from the coastal defense strategy and the defeat of the

⁴⁴ The State Council Information Office of the People's Republic of China, "China's Military Strategy - 2015" (Information Office of the State Council, May 2015), 11.

⁴⁵ Paul An-hao Huang, *The Maritime Strategy of China in the Asia-Pacific Region: Origins, Development and Impact* (Lewiston: Edwin Mellen Press, 2010), 181–182.

⁴⁶ Bernard D. Cole, "The PLAN's Heritage," in *The Great Wall at Sea: China's Navy Enters the Twenty-First Century* (Annapolis: Naval Institute Press, 2001), 17.

nationalist, a key takeaway is the affirmation of the PLAN as guerrilla force. The PLAN's use of asymmetric tactics can thus be traced back to its official inception in 1949 due to its inferior position compared to land-based forces.

Throughout the 1950s and 1960s, the PLAN would be undermined in its efforts to modernize and expand naval operations. Huang contends that U.S. forces involved in the Korean Conflict made it “unrealistic, if not impossible, for Chinese defense policymakers to contemplate and execute naval development other than coastal defense.”⁴⁷ Moreover, the Sino-Soviet divide further weakened naval modernization works. Hailong Ju asserts that due to the Sino-Soviet split, “China quickly shifted the focus of its national defense from the southeast coastal areas to the Sino-Soviet borders in the North ... The navy was dropped from being the most important to the third.”⁴⁸ Domestic and international factors during this period severely challenged PLAN growth, thus reinforcing the concept of a people's war at sea given the PLAN's material and personnel deficiencies. The relegation of the navy as a secondary fighting force would remain the perception until the mid-to-late 1970s and the Paracels Battle at Sea.

The Battle of the Paracels (Xisha) on January 19, 1974, would ultimately prove to be a watershed moment in the history of the PLAN and maritime militia employment. The engagement at sea pitted the qualitatively and quantitatively superior South Vietnamese navy against the far less capable Chinese South Sea Fleet. The battle at sea was the result of counter-claims over small islands in the South China Sea that are approximately equidistant from both nations. PLA naval units were directed from Hainan Island to respond to the South Vietnamese threat. Chinese fishing trawlers were already operating in vicinity of the Paracels, acting as forward observers. Toshi Yoshihara explains that

at sea, trawlers Nos 402 and 407 acted as first responders. Months before the battle, the fishing boats maintained initial presence in the Paracels while asserting claims to the islands by planting flags on them. The trawlers then sent early warning to headquarters ashore when [South Vietnamese]

⁴⁷ Alexander Huang, “The PLA Navy at War: 1949–1999,” in *Chinese Warfighting: The PLA Experience Since 1949*, ed. Mark A. Ryan, David Michael Finkelstein, and Michael A. McDevitt (Armonk, NY: M.E. Sharpe, 2003), 243.

⁴⁸ Hailong Ju, *China's Maritime Power and Strategy: History, National Security and Geopolitics* (Hackensack, NJ: World Scientific, 2015), xxxv.

warships first arrived in the Paracels. The leaders on board also furnished tactical intelligence to the PLAN's local commanders at sea.⁴⁹

By the mid-1970s, the PLAN had meaningfully increased its value by contributing to China's broader strategy. Therefore, by the late 1970s, Beijing elites and intellectuals were increasingly supportive of manifesting a blue water capable force that was enigmatically connected to the status of being a great power. During a speech in 1979, Deng Xiaoping publicly called for China to “develop a powerful navy,” and in 1985 he reiterated this point, calling for a navy with ‘real fighting capability.’”⁵⁰ The mid-1980s marks the first major shift in Chinese maritime strategy since 1949. The strategy shifted from traditional coastal defense to “offshore defense,” demonstrating the PRC's recognition of the importance of the blue water and expanding their maritime sphere of influence. The strategy is focused on increasing blue-water capabilities but does not preclude the employment of maritime militias; rather, it reinforces their importance in asserting China's claims in the East and South China Seas.

The transition to offshore defense marks a dramatic shift in China's naval strategy. Bernard Cole asserts, “offshore defense is a maritime strategy with clear offensive implications: Beijing is moving its strategic line seaward from the coast demonstrating that the Navy has a key role in China's twenty-first century.”⁵¹ The offshore defense transition ultimately serves China's broader grand strategy, emphasizing territorial integrity and sovereignty as well as the defense of China's economy, which requires unfettered access to global markets via sea lines of communication. Cole affirms this, explaining that an “offshore defense strategy includes missions to contain and resist foreign aggression from the seas, defend China's territory and sovereignty, and safeguard the motherland's unification and maritime rights.”⁵² The evolution and maturation of the PLAN after thirty

⁴⁹ Toshi Yoshihara, “The 1974 Paracels Battle at Sea: A Campaign Appraisal,” *Naval War College Review* 69, no. 2 (March 22, 2016): 56.

⁵⁰ Thomas M. Kane, *Chinese Grand Strategy and Maritime Power*, Cass Series—Naval Policy and History 16 (Portland, OR: Frank Cass, 2002), 63.

⁵¹ Bernard D. Cole, “China's Maritime Strategy,” in *The Great Wall at Sea: China's Navy Enters the Twenty-First Century* (Annapolis: Naval Institute Press, 2001), 173.

⁵² Cole, 173.

plus years of apathetic malaise has unequivocally transformed it into a capable blue water navy with immediate regional force protection capacities and global reach. However, the PRC continues to leverage its historical roots by employing maritime militias as a first line of defense in its near-seas commons.

China's maritime militias are uniquely representative of the bifurcation of the historical legacies imposed by a consistently redefined people's war and the offensive realities of the modern international order. As the PLAN continues to expand global blue water operations with extensive international basing operations, China's Maritime Law Enforcement (MLE) units and vast maritime militia will be increasingly called upon to defend the nation's maritime claims. Huang asserts that "as long as the PLA Navy prepares itself for a defensive war at sea protecting Chinese claims of sovereignty, it will still be a people's war at sea."⁵³ Given the historical legacies, PLAN advancements, and China's incremental approach to the near maritime commons, maritime militias appear to be a distinctly Chinese approach to maritime conflict.

C. 1990 TO PRESENT: INFORMATIZATION, MODERNIZATION, AND MOBILIZATION

In the remaining years of the 1980s and into the early 1990s, the PRC's military strategy continued to shift as a result of China observing the evolution of modern warfare—in particular, the 1991 Gulf War. The focus of the strategy was warfare under high-technology conditions that would likely be limited in both geographic terms and duration. The strategy, which was termed "Winning Local Wars under High Technology Conditions," has become the foundation to all subsequent modifications, including the most recent iteration, "Winning Informationalized Local Wars." Regardless of the nomenclature adjustments that preceded the 1993 concept, the uncomplicated premise of the strategy is a combination of joint operations and modern military technology that allows a state to control or deny access to crucial terrain, while at the same time severely limiting the duration of the conflict. Former Vice Chairman of the CMC Liu Huaqing describes the strategy as a

⁵³ Ryan, Finkelstein, and McDevitt, *Chinese Warfighting*, 266.

shift from countering the invasion of one main enemy to countering multiple forms of conflicts from different adversaries, from defensive battles of long duration in the hinterland to short and decisive mobile operations in the coastal and border regions, from having plans for the battlefield and making long preparations for large-scale conflicts to making temporary arrangements and responding rapidly to limited conflicts, from ground warfare-based coordinated operations to joint operations of the three services with increased air and naval warfare.⁵⁴

Joint integrated forces that can rapidly acquire, disseminate, and act on information have a decisive advantage in modern warfare. The PLA strategy of “winning informationalized local wars,” is an affirmation of the evolution of modern military affairs and carries with it at least one particularly significant implication related to maritime development. First, while the focus is on joint integrated operations and the development of a cadre of highly technologically advanced conventional forces, the Chinese, perhaps for reasons of organizational culture and history or perhaps because of deliberate choice to facilitate gray zone tactics, have retained and enhanced their maritime militias. Therefore, modernization efforts have largely been directed at creating the necessary information infrastructure that enables joint integrated operations that include civilian components.

PRC naval modernization in the last two decades is the result of unprecedented labor that crosses every line of effort that the maritime forces support. Ronald O’Rourke asserts that “China’s naval modernization effort is a broad-based effort ... includ[ing] a wide array of platform and weapon acquisition programs ... maintenance and logistics, doctrine, personnel quality, education and training, and exercises.”⁵⁵ Additionally, a critical aspect of naval modernization is the integration of China’s other two sea forces—MLE and maritime militias—with the PLAN. Sheng Bin, deputy of the National People’s Congress and Minister of National Defense Mobilization of the Central Military Commission, stresses that forces must “adapt to the requirements of informationized warfare ... [and] promote the deep development of national defense mobilization of

⁵⁴ Fravel, “Shifts in Warfare,” 73–74.

⁵⁵ Ronald O’Rourke, *China Naval Modernization: Implications for U.S. Navy Capabilities--Background and Issues for Congress*, CRS Report No. RL33153 (Washington, DC: Congressional Research Service, 2018), 2–3.

military and civilian integration.”⁵⁶ The employment of civilian maritime law enforcement and militias, in addition to the increasing civil-military integrations, has dramatically expanded China’s maritime instruments of power.

Civil-military integration has become an increasingly significant element of the CCP’s strategy to preserve domestic order and defend territorial sovereignty. Andrew J. Nathan and Andrew Scobell assert that, after having been inactive for an extended period of time, some 8 million militia members resumed supporting the Chinese military in the early 2000s.⁵⁷ Particular focus has been placed on the naval component of the militias. Andrew Erickson asserts that “maritime militias, meanwhile, are growing in proportion to their land-based counterparts as China prepares for ‘maritime military struggle.’”⁵⁸ The maritime militias afford the CCP a massive force that, when positioned against regional or international naval forces, provides China with a numerically superior force and a vast network of forward observers.

A direct chain of command exists to connect the CCP, PLA, MLE, and maritime militias. Furthermore, evidence also suggests that President Xi is increasingly involved in the direction of the militias and coordination with other defense forces. In 2015, the most substantial PLA reorganization in CCP history subordinated militia administrative control to the Central Military Commission (CMC), headed by President Xi.⁵⁹ In addition, the Chinese Maritime Rights Protection Leading Small Group (LSG), which Xi leads as well, appears to be exercising increased command and control over a variety of maritime units and operations. Bonnie Glasser contends,

Little is known about the work of the Maritime Rights Protection LSG. According to a few media reports, the LSG has been known to direct the

⁵⁶ “Sheng Bin: Accelerate the Construction of a New National Defense Mobilization System with Chinese Characteristics,” *Xinhua News Agency*, March 9, 2016, http://www.xinhuanet.com/politics/2016lh/2016-03/09/c_1118280814.htm.

⁵⁷ Andrew J. Nathan and Andrew Scobell, *China’s Search for Security* (New York: Columbia University Press, 2012), 286.

⁵⁸ Andrew Erickson, “Hainan’s Maritime Militia: China Builds a Standing Vanguard, Pt. 1,” Center for International Maritime Security, March 25, 2017, <http://cimsec.org/hainans-maritime-militia-china-builds-standing-vanguard-pt-1/31556>.

⁵⁹ Joel Wuthnow and Phillip C Saunders, “Chinese Military Reform in the Age of Xi Jinping,” *China Strategic Perspectives* 10 (March 2017): 21.

tactical movements of Chinese surveillance vessels and navy ships ‘over radio or television phone.’ Since the creation of the Maritime Rights Protection LSG, coordination has been notably enhanced among the navy, coast guard, SOA [State Oceanographic Administration], and maritime militia.⁶⁰

The revitalization of mobilization forces is in keeping with the 2015 Defense White Paper, which states “China aims to build a national defense mobilization system that can meet the requirements of winning informationized wars and responding to both emergencies and wars.”⁶¹ The Defense White Paper further serves to highlight the growing significance of China’s expanding maritime consciousness, stating that the “PLAN will gradually shift its focus from ‘offshore waters defense’ to the combination of ‘offshore waters defense’ with ‘open seas protection.’ and build a combined, multifunctional and efficient marine combat force structure”⁶²

The PRC’s strategic focus on the maritime domain is a marked departure from the earliest years of the communist party and the People’s Liberation Army. Andrew Erickson stresses that

whether viewed deductively from strategic intentions, or inductively from development, operational, and tactical actions, China’s increasingly-modernized and -integrated maritime forces—centered on the PLAN—are pursuing a two-fold effort: intensive ‘near seas active defense’ of outstanding island and maritime claims on China’s maritime periphery, coupled with ‘far seas protection’ of more diffuse, diverse interests beyond.⁶³

China’s strategy in the maritime domain is a strategy of layered defense and integrated civil-military components, which significantly expands the PRC’s maritime domain awareness. The PLAN, MLE, and maritime militias are a critical element in the PRC’s broader strategy to exert pressure on both its regional neighbors and the

⁶⁰ Bonnie Glaser, “China’s Maritime Rights Protection Leading Small Group—Shrouded in Secrecy,” Asia Maritime Transparency Initiative, September 11, 2015, <https://amti.csis.org/chinas-maritime-rights-protection-leading-small-group-shrouded-in-secrecy/>.

⁶¹ The State Council Information Office of the People’s Republic of China, “China’s Military Strategy-2015.”

⁶² The State Council Information Office of the People’s Republic of China.

⁶³ Andrew S. Erickson, “China’s Blueprint for Sea Power,” *China Brief* 16, no. 11 (July 6, 2016): 5.

international community in an attempt to exercise control over vast swaths of the South and East China Seas.

D. CHINA'S MARITIME PERSPECTIVE: SOVEREIGNTY, MARITIME RIGHTS, AND THREE WARFARES

Territorial sovereignty has been a particularly sensitive issue for the Chinese, most notably due to the Century of Humiliation. As a result of this period of national dishonor, the CCP has always made the defense of territory and sovereignty against foreign threats a preeminent Chinese strategic objective. The evolution of territorial expansion to include the maritime domain marks a shift in the PRC's recognition that safeguarding these critical elements not only facilitates the defense of the homeland but also, and more importantly, ensures the survival of the regime. Thus, China's growing maritime consciousness is the result of both endogenous and exogenous motivations. Maritime expansion enables the CCP to actively engage the populace on issues of sovereignty and economic growth, which fundamentally reinforces the legitimacy of the party while at the same time expanding China's powerful sphere of influence.

China's maritime disputes are centered on two primary issues: territorial and maritime rights. First are territorial disputes, which are present in both the South and East China Seas, where the PRC contests the authority of regional states to exercise sovereignty over various islands, islets, and features. The PRC's Ministry of Foreign affairs (MFA) consistently affirms the CCP's stalwart position in regard to maritime claims. Responding to the 2016 Permanent Court of Arbitration's findings in the case of *The Republic of the Philippines v. The People's Republic of China*, the MFA stated,

China has indisputable sovereignty over the Nansha Islands and their adjacent waters. And it is an indisputable fact that the Xisha Islands are an integral part of China's territory. As early as 1948, the Chinese government published an official map which displayed "the dotted line" in the South China Sea. China's sovereignty over the South China Sea and its claims to the relevant rights have been formed over a long course of history. They are

solidly grounded in international law and have been consistently upheld by successive Chinese governments.⁶⁴

China's focus in the East China Sea is on eight islets that are administered by Japan but claimed by the PRC and Taiwan. The issue dates back to a fundamental disagreement over language in the 1895 Treaty of Shimonoseki, and, although the rocky outcroppings offer little in physical value other than fishing, their significance to national pride is incalculable.

The second point of contention for the PRC is maritime rights. Ryan Martinson explains that maritime rights “refer to the rights of coastal states to use and administer areas of the ocean, as outlined in international law—above all, UNCLOS. These areas, or zones, include the territorial sea, contiguous zone, EEZ, and, in some cases, a continental shelf.”⁶⁵ The CCP's interpretation and antagonistic stance regarding international laws and arbitration have, in effect, bred more significant conflict with regional neighbors as well as with the international community. Ian Bower affirms this, stating that “if a party chooses to ignore UNCLOS or parties have differing interpretations of its parameters and the obligations it imposes, the possibility for clashes is heightened since in contested areas at sea any exercise of administrative control is fluid and limited.”⁶⁶ The PRC has consistently interpreted international law in favor of expanded maritime claims, while at the same time ignored the decision of international institutions that have ruled against Chinese interests. One can conclude that the PRC seeks only to apply those rules that support its position while employing tactics that undermine the broad consensus-based order. Territorial and maritime rights are, therefore, prime examples of the PRC strategy that seeks to operationalize the law in favor of Beijing's maritime interests. China uses the law as a soft power weapon and, in recent years, has successfully connected it to its maritime force, which is increasingly integrated across naval, coast guard, and militia units. Commonly

⁶⁴ Permanent Court of Arbitration, “The South China Sea Arbitration Award of 12 July 2016,” Award (Hague: Permanent Court of Arbitration, July 12, 2016).

⁶⁵ Martinson, *Echelon Defense*, 6.

⁶⁶ Ian Bowers, “Escalation at Sea: Stability and Instability in Maritime East Asia,” *Naval War College Review* 71, no 4 (2018), 47.

referred to as lawfare, China's legal arsenal is one the three central tenants of the Three Warfares doctrine.

Introduced in 2003, the Three Warfares doctrine is the strategy to weaponize psychology, the media, and the law in an effort to mobilize all instruments of state power to compete in the international environment while attempting to remain below the level of war. Stefan Halper asserts that the Three Warfares doctrine "proceeds in a dimension separate both from the well-worn 'hearts and minds' paradigm and from the kinetic context in which power projection is normally gauged and measured ... [the Three Warfares] seek to alter the strategic environment in a way that renders kinetic engagement irrational."⁶⁷ The use of Three Warfares factors prominently in the conflicts that originate in the South China and East China Seas. This is not to say that other claimants in the region are not using similar means, but it is of particular significance that the PRC has opted to codify this doctrine, which is essentially China's gray zone warfare strategy. The U.S. Department of Defense defines the Three Warfares as the following:

Psychological Warfare seeks to undermine an enemy's ability to conduct combat operations through operations aimed at deterring, shocking, and demoralizing enemy military personnel and supporting civilian populations.

Media Warfare is aimed at influencing domestic and international public opinion to build support for China's military actions and dissuade an adversary from pursuing actions contrary to China's interests.

Legal Warfare uses international and domestic law to claim the legal high ground or assert Chinese interests. It can be employed to hamstring an adversary's operational freedom and shape the operational space. Legal warfare is also intended to build international support and manage possible political repercussions of China's military actions. China has attempted to employ legal warfare in the maritime domain and in international airspace in pursuit of a security buffer zone.⁶⁸

⁶⁷ Stefan Halper, ed., *China: The Three Warfares* (Cambridge, England: University of Cambridge, 2013), 11–12.

⁶⁸ Office of the Secretary of Defense, "Military and Security Developments Involving the People's Republic of China 2011" (Washington, DC: United States Department of Defense, May 2011), 26, http://archive.defense.gov/pubs/pdfs/2011_CMPR_Final.pdf.

The Three Warfares doctrine is the PRC's articulation to control the escalation of conflict. The Three Warfares factors prominently in maritime disputes where the PLAN and the integrated civil-military force—coast guard and militias—are the leading edge of China's offshore defense strategy aimed at winning informationalized local wars.

The militias are in a position to affect each of the Three Warfares. The PRC deploys the militias to subvert legal frameworks that inform how states' militaries should respond to a civilian presence; by extension, this gains both a media and psychological advantage. From the perspective of the media, the CCP can drive a narrative that Chinese fishermen are victims of disproportionately aggressive regional neighbors, which, in effect, contributes to the psychological demoralization of those regional forces. The Battle of Paracels offers evidence of the maritime militia's roles in subverting norms. Yoshihara stresses that

in contrast to a naval presence that could have conveyed belligerence, the trawlers gave China a low-profile means to back up its territorial claims [Lawfare]. Even though the fishing boats engaged in provocative behavior, the ambiguities surrounding their identity and purpose furnished plausible deniability to Chinese leaders [Psychological]. The ostensibly civilian character of the trawlers added ammunition to Beijing's diplomatic narrative that Saigon was the aggressor [Media].⁶⁹

Therefore, one can conclude that revitalization of maritime militias in the last ten years has enabled the PRC to control the escalation of conflict in the maritime domain while undermining regional states' efforts to exert control over contested territory, echoing the effects of 1974 in the 21st century.

E. CONCLUSION

The PRC's political and strategic calculations are endemic of a regime that is conditioned to see threats from all angles. Doug Livermore asserts that the "PRC, and particularly the CCP, sees itself today as beset on all sides (and internally) by potential threats, and it seeks to avoid open conflict whenever possible by employing minimally

⁶⁹ Yoshihara, Toshi, "The 1974 Paracels Battle at Sea: A Campaign Appraisal," *Naval War College Review* 69, no. 2 (March 22, 2016): 57.

offensive measures to pursue its objectives.”⁷⁰ The PRC’s strategic threat calculus thus supports the development of strategies and units that are specifically designed to support a more assertive position in the maritime environment, but fundamentally frustrates adversaries’ traditional response mechanisms. What promotes China’s use of maritime militias is two-fold. First, it is an affirmation of historic precedent, vis-à-vis the Battle of the Paracels in 1974, the consequences of which continue to reverberate in the 21st century. The PRC’s deployment of maritime militias in support of the PLAN flotilla in many ways set the stage for maritime militia employment over 50 years later. One cannot deny the involvement of maritime militias in the conflict or the analogy for their use in the current security environment.

Second, the PRC development of both political and military strategies encourages the use and integration of asymmetric forces. Militarily, this takes the form of winning informationalized local wars, includes an element of civilian integration and militia mobilization. Therefore, one of the strongest examples of this duality—mobilization and integration—is the use of maritime militias. Furthermore, the maritime militias can be a tool that crosses all three lines of effort articulated in the Three Warfares political doctrine, which can be aptly characterized as a political warfare. George F. Kennan explains that “Political Warfare is the logical application of Clausewitz doctrine in time of peace. In broadest definition, political warfare is the employment of all the means at a nation’s command, short of war, to achieve its national objectives.”⁷¹ Maritime militias are the physical manifestation of political warfare, becoming an integral part of the PRC’s maritime campaign.

What the PRC is doing with the maritime militias is a microcosm of a much larger campaign to slowly reshape the status quo in an attempt to win without fighting. Patrick Cronin and Melodie Ha emphasize this point, stating that “China seeks to change the status quo through incremental actions, mobilizing both military and paramilitary forces, and

⁷⁰ Doug Livermore, “China’s ‘Three Warfares’ In Theory and Practice in the South China Sea,” *Georgetown Security Studies Review* (blog), March 25, 2018, <http://georgetownsecuritystudiesreview.org/2018/03/25/chinas-three-warfares-in-theory-and-practice-in-the-south-china-sea/>.

⁷¹ George F. Kennan, “Organizing Political Warfare” (Wilson Center Digital Archive, April 30, 1938), <https://digitalarchive.wilsoncenter.org/document/114320.pdf?v=94>.

threats of coercion—but stopping short of steps that might trigger conflict.”⁷² As the PRC grows more assertive and coercive, the international community must develop antithetical hybrid warfare strategies that significantly constrain China’s ability to compete in the gray zone.

The PRC’s effort to modernize the navy, reinvigorate mobilization—specifically maritime militias—and codify doctrine and strategy that is fundamentally an articulation of hybrid warfare indicates a conscious decision by the Chinese to keep conflict below the threshold of war. The Chinese are not unique in their efforts to control escalation and employ state tools that opt to subvert the international norms; however, the key in the case of the PRC is that there seems to be a concerted strategy from the highest levels of leadership to the lowest levels of citizen activism. The informatization, modernization, and mobilization efforts of China supports a conclusion that Beijing has a coherent multi-faceted strategy to control escalation and constrain conflict below high-intensity conflict.

This chapter has framed the evolution of China’s maritime strategy from 1949 to present and its continued use of maritime militias to show that Chinese strategy is, in part, designed to manage escalation and keep conflict below the threshold for war. The following chapter dives into the issue of gray zone conflict by examining why states pursue gray zone tactics and what tactics states use when competing in the gray zone. It critically examines China’s operationalization of the world’s largest fishing fleet into the world’s largest maritime militia, and how it has emerged as a gray zone force multiplier in the first two decades of the 21st century.

⁷² Patrick M. Cronin and Melodie Ha, “PacNet #42 - Toward a New Maritime Strategy in the South China Sea,” Pacific Forum, accessed June 26, 2018, <https://www.pacforum.org/analysis/pacnet-42-toward-new-maritime-strategy-south-china-sea>.

III. THE GRAY ZONE – MARITIME MILITIAS OPERATIONALIZED

This chapter is divided into two sections. First, it explores in greater detail the concept of gray zone conflict; next, it explores the operationalization of China's fishing fleet as a maritime militia. The chapter provides the historical context concerning the gray zone as well as a brief examination of the stability-instability paradox. Furthermore, the gray zone section defines what the gray zone is, essential characteristics of it, and the tactics used to frustrate the adversary. The second section focuses on the development of Chinese maritime militias, including their structure, employment, and role in Chinese maritime strategy. Chapter 3 begins the process of answering the second sub-question: How does China use the maritime militias to prevent an escalation of regional conflict? Defining gray zone key concepts and understanding maritime militia force structure is critical to the following case study chapter.

A. THE GRAY ZONE

In what is increasingly being referred to as an era of great power competition, the United States faces rising states that seek to advance their interests through alternative means that remain below the threshold of war. The U.S. National Security Strategy affirms the current era of competition, stressing that “after being dismissed as a phenomenon of an earlier century, great power competition [has] returned.”⁷³ Therefore, given states' increasing use of tactics that attempt to avoid war, the modern era of international competition can be progressively classified in terms of gray zone conflict. David Barno and Nora Bensahel assert that “gray zone conflicts are not formal wars, and little resemble traditional, ‘conventional’ conflicts between states.”⁷⁴ The U.S. Department of State's International Security Advisory Board (ISAB) contends that the gray zone represents the exploitation of “instruments beyond normal international interactions yet short of overt

⁷³ Trump, National Security Strategy, 27.

⁷⁴ David Barno and Nora Bensahel, “Fighting and Winning in the ‘Gray zone,’” War on the Rocks, May 19, 2015, <https://warontherocks.com/2015/05/fighting-and-winning-in-the-gray-zone/>.

military force.”⁷⁵ What ultimately drives the gray zone strategy is the use of ambiguity and plausible deniability to avoid accountability. Historic examples of Chinese ambiguity and plausible deniability include China’s participation in the Korean War and Vietnam War, in which the PRC denied PLA involvement and, during the Korean War, went as far as issuing different insignia to the People’s Volunteer Army. Neither of these conflicts are considered to be state-on-state war with China but serve to highlight the ambiguity and plausible deniability intrinsic in gray zone conflict. The significance of China’s involvement was the capacity to achieve its aims at a cost far lower than war. The calculus to operate in the gray zone is critical in understanding the Chinese decision to operationalize civilian fishing fleets into a paramilitary maritime force.

1. Why States Choose A Gray Zone Strategy

Given the global asymmetry created by U.S. military power, the United States can exercise significant escalatory control within the international order. As a result of the United States’ conventional military supremacy, as well as its nuclear weapons deterrence, adversarial states increasingly pursue minor or indirect engagements as opposed to high-intensity conflict. This occurrence is related to the international relations concept of the stability-instability paradox, which offers a useful explanation of why states would pursue a gray zone strategy. Robert Jervis defines the stability-instability paradox in the following terms: “To the extent that the military balance is stable at the level of all-out nuclear war, it will become less stable at lower levels of violence.”⁷⁶ The paradox is more than a qualitative assessment of the stability induced by nuclear weapons in the international domain. When comparing two nuclear-equipped states, the paradox offers further insight into a state’s policy decision that exploits the gray zone. Robert Rauchhaus finds that “when there is symmetry, and both states possess nuclear weapons, then the odds of war precipitously drop... [and] simultaneously allow for more risk-taking in lower intensity disputes.”⁷⁷ However, it should be noted that this is not the case for all states that possess

⁷⁵ International Security Advisory Board, “Report on Gray Zone Conflict,” 2.

⁷⁶ Robert Jervis, *The Illogic of American Nuclear Strategy* (Ithaca: Cornell University Press, 1984), 31.

⁷⁷ Robert Rauchhaus, “Evaluating the Nuclear Peace Hypothesis: A Quantitative Approach,” *Journal of Conflict Resolution* 53, no. 2 (April 2009): 258, <https://doi.org/10.1177/0022002708330387>.

nuclear weapons. The Kargil War is one example, in which India and Pakistan fought a limited state-on-state war shortly following nuclear testing in 1998. However, given the escalation dominance imposed by the United States and the empirical findings of Rauchhaus, one can conclude that dissatisfied states would naturally pursue strategies that avoid the strengths of the status quo power but still advance interests elsewhere.

2. Historical Perspective

Arguably the two greatest military strategists and philosophers, Sun Tzu and Carl von Clausewitz recognized the significance of the gray zone competition without ever having called it that. They profoundly understood the significance of political outcomes and that war should indeed be an option of last resort.

Approximately 2,300 years before Clausewitz, Sun Tzu unknowingly described two of the critical characteristics of gray zone conflict: ambiguity and asymmetry. Writing that “tactics are like water. For water, in its natural course, runs away from high places and hastens downwards. So, in war, the way is to avoid what is strong and strike at what is weak. Therefore, just as water retains no constant shape, so in warfare, there are no constant conditions.”⁷⁸ The employment of ambiguous and asymmetric tactics by states is not new, regardless of the relatively recent revival within the national security, political, and military spheres. Regardless of the age of the concept or its employment by states, it is critical that activities in the gray zone be rapidly identified, understood, and countered. In an era of great power competition, revisionist states are increasingly leveraging gray zone strategies in an attempt to avoid war while still shifting the international order in their favor. Therefore, it can be argued that high-end conventional war can be a stand-in for nuclear war in the modern era, leading to similar effects as described by the stability-instability paradox. High-end conventional war represents an incredibly destructive force that is arguably far more likely to occur than nuclear war and, given the destructive capacities of modern militaries, states are inclined to seek alternative strategies in pursuit of national interests that avoid breaching the threshold for high-intensity conflict.

⁷⁸ Victoria Charles and Sun Tzu, *Art of War* (New York: Parkstone Press International, 2012), 52, <https://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=1337401>.

Political objectives are what Clausewitz considered “the original motive for the war.”⁷⁹ From that, Clausewitz postulates that “if [political aim] is all a calculation of probabilities based on individuals and conditions, the political object...must become an essential factor in the equation. The smaller the penalty you demand from your opponent, the less you can expect him to try and deny it to you; the smaller the effort he makes, the less you need make yourself.”⁸⁰ Clausewitz is speaking directly to the third characteristic of gray zone conflict—incrementalism—or what is commonly referred to as the Chinese strategy of salami slicing.⁸¹ As Robert Haddick expresses, “If sliced thinly enough, no one action will be dramatic enough to justify starting a war.”⁸² The implications for state actions within the gray zone become clearer when understanding that competition does not have to conform to a particular set of conditions and that the political outcome is the preeminent goal.

3. Defining the Gray Zone

The gray zone is, at its essence, a space where states conduct operations between peace and war, employing strategies that attempt to lessen the likelihood that an adversary will pursue war. Gray zone strategies may challenge the international rules-based order, while others are simply orthogonally connected. Regardless, the principle aim of gray zone strategies is the incremental modification of the status quo in favor of one state’s interests. Activities within the gray zone often employ unconventional tools, techniques, and procedures that undermine an adversary’s position while remaining below the threshold for war. Irrespective of the activities, the only universal principle of gray zone conflict is

⁷⁹ Carl von Clausewitz, *On War*, ed. and trans. Michael Howard and Peter Paret, (Princeton, NJ: Princeton University Press, 1976), 80.

⁸⁰ Clausewitz, *On War*, 80-81.

⁸¹ Salami slicing, or salami tactics, is a term used to describe an incremental series of actions that when performed in succession by an antagonist, can lead to concessions by rival states that would have otherwise been too great to achieve if attempted in a single action. The term can be traced back to Hungarian Communist leader Mátyás Rákosi; however, the term has been used consistently throughout scholarly literature to refer to any situation in which an adversary takes limited steps to achieve political aims that attempt to avoid direct provocation and conflict.

⁸² Robert Haddick, “Salami Slicing in the South China Sea,” *Foreign Policy* (blog), August 3, 2012, <https://foreignpolicy.com/2012/08/03/salami-slicing-in-the-south-china-sea/>.

remaining below the inception point of war. As defined by Philip Kapusta, the gray zone is the “competitive interactions among and within state and non-state actors that fall between the traditional war and peace duality.”⁸³ Gray zone strategies ultimately serve to undermine the adversary’s capacity and ability to respond, while attempting to evade a kinetic retaliatory reaction. However, it does not mean that a relatively limited armed conflict may not be a potential outcome of gray zone conflict.

Competitors within the gray zone space seek to employ a spectrum of capabilities in pursuit of foreign policy objectives. John Schaus contends that “the main tools employed by malign actors operating in the gray zone include: Military, paramilitary, or other-state controlled forces, proxy forces, information warfare, corruption of politicians, economic tools and shaping civil society.”⁸⁴ China is undoubtedly employing many of these tools in various capacities; however, most notable to this research is the use of paramilitary-like forces within the maritime domain. Katherine Morton notes that “China is now undergoing a maritime renaissance to secure its destiny as a great maritime nation, raising unsettling questions about the epicenter of geopolitical power in the contemporary era.”⁸⁵ The use of proxy forces combined with China’s resurgence in the maritime domain presents issues that policymakers, political leaders, and military commanders must confront in the competitive gray zone space.

4. Gray Zone Characteristics

The gray zone definition by Philip Kapusta adopted in this research provides the broad context for what gray zone conflict is. This section examines the three primary characteristics of gray zone conflict: ambiguity, the exploitation of asymmetries, and gradualism. States leverage ambiguity, asymmetric advantages, and a gradualist approach to increase their influence while limiting kinetic retaliatory action. These characteristics are critical conceptual terms in understanding how and why states use various diplomatic,

⁸³ Philip Kapusta, “The Gray zone,” *Special Warfare* 28, no. #4 (December 2015): 20.

⁸⁴ John Schaus, “What Works: Countering Gray Zone Coercion,” *CSIS Briefs*, July 16, 2018, 2.

⁸⁵ Morton, “China’s Ambition in the South China Sea,” 910.

informational, military, and economic modalities to limit the escalation of competition above the threshold for war.

Arguably the preeminent characteristic of gray zone conflict is ambiguity. David Barno and Nora Bensahel assert that for gray zone conflicts “their defining characteristic is ambiguity—about the ultimate objectives, the participants, whether international treaties and norms have been violated, and the role that military forces should play in response.”⁸⁶ When nations employ forces that are ambiguous in purpose and intent, they are able to disguise their intentions while attempting to avoid attribution. This hinders an adversary’s ability to determine the exact nature of the threat and how to counter it.

Furthermore, the international system is not designed to counter ambiguity. When acts are ambiguous, state and multinational strategies are often unable to contend with them effectively. Fundamentally, ambiguity allows revisionist and status quo states the ability to conceal their intentions and actions by exploiting asymmetries that are inherent in the international order. As Heidi Reisinger and Alexander Golts explain, “ambiguity, make[s] an adequate reaction extremely difficult, especially for multinational organizations that operate on the principle of consensus.”⁸⁷ Thus, the consensus rules-based order contributes to increased transparency in the international environment, thereby reducing strategic ambiguity. These agreed upon rules have subsequently disincentivized a state’s use of traditional outright violence with which to advance their interests. Instead, states are compelled to use gray zone tactics that attempt to adjust the status quo gradually, accepting limited gains relative to their material power.

Historically, asymmetry has been primarily been used to compare one state’s relative military power to that of another. However, Frank Hoffman asserts that “asymmetry has been sought in operational terms within traditional military dimensions.”⁸⁸

⁸⁶ Barno and Bensahel, “Fighting and Winning in the ‘Gray Zone.’”

⁸⁷ Heidi Reisinger and Alexander Golts, “Russia’s Hybrid Warfare: Waging War Below the Traditional Collective Defence,” in *NATO’s Response to Hybrid Threats*, ed. Guillaume Lasconjarias and Jeffrey A. Larsen, NDC Forum Papers 24 (Rome: NATO Defense College, 2015), 116–117.

⁸⁸ Frank G Hoffman, “Conflict in the 21st Century: The Rise of Hybrid Wars,” *Potomac Institute for Policy Studies*, December 2007, 24.

Therefore, in an era of increasing gray zone conflict, analysis and judgement of asymmetry requires a more expansive understanding. Michael Green argues that asymmetry is determined by a state's "calculations of cost and benefit derive[d] largely from a state's assessment of its interests and capabilities and those of its adversary and any third parties."⁸⁹ Green's assessment of state calculation infers that there are two broad categories of asymmetry—interest and capabilities.

Interest asymmetries are nominal value incongruities. This means that states fundamentally have different values that drive their interests within the international order. Capability asymmetries, on the other hand, fall in the more traditional analysis of hard power capabilities but can expand across the spectrum of soft power to include psychological, legal, and media. Therefore, asymmetry calculations are about identifying areas of the adversary that are vulnerable to exploitation, which, when exploited, do not cross any red lines and incur only insignificant costs but that fundamentally frustrate the adversary's ability to employ its strengths.

The last characteristic of the gray zone is the idea of gradualism or incrementalism. Thomas Schelling refers to this idea as "salami tactics," which are "low-level incident[s] or probe[s] and tactics of erosion. One tests the seriousness of a commitment by probing in a noncommittal way ... both to forestall the reaction and to avoid backing down."⁹⁰ Incrementalism is akin to the analogy of slowly boiling a frog so that it does not perceive the immediate risk to its safety and jump out of the pot. In very much the same way, states take gradual steps that do not overwhelmingly upset the status quo, thus decreasing the chance of unnecessarily provoking the dominant power's will. Michael Mazarr argues that "the goal is often not just to achieve a narrow objective, but rather to use an avalanche of incremental steps as the catalysts of an entirely new strategic reality. Gradualist approaches are especially appealing to measured revisionists."⁹¹ Gradualism is thus understood as a

⁸⁹ Michael Green et al., *Countering Coercion in Maritime Asia*, 29.

⁹⁰ Thomas C. Schelling, *Arms and Influence* (New Haven, CT: Yale University Press, 2008), 67.

⁹¹ Mazarr, "Mastering the Gray zone," 38.

state's attempt to limit the inertia of competition from escalating to a conflict that would inevitably result in achieving a terminal velocity leading to war.

5. Gray Zone Tactics: Coercion and/or Fait Accompli

Coercion is an important aspect to consider when examining international relations; however, the focus on anticipated violence may not make it the most advantageous metric to analyze gray zone conflict. That is because, as Mazarr explains, “Gray zone strategies pursue political objectives through calculated and integrated campaigns to achieve specific and often quite ambitious goals ... [and] employ mostly non-military or non-kinetic tools.”⁹² As Mazaar points out, gray zone conflicts are primarily competitive interactions using tactics that are, for the most part, limited in regard to kinetic actions. This point proves particularly important when one considers how Thomas Schelling describes coercion. Schelling asserts that for states’ actions “to be coercive, violence has to be anticipated. The power to hurt is bargaining power.”⁹³ Therefore, the threat of violence is the means to achieve political ends. However, in the gray zone, where the threat of violence is often restrained, the focus is employing tactics that attempt to deter the adversary from employing more fully all instruments of national power, specifically military forces.

The broad scholarly consensus is that coercion can be understood through either the lens of deterrence or compellence. As Green explains, “attempts to coerce include both efforts to compel a state to take a desired action and efforts to deter a state from taking unwanted action.”⁹⁴ Given Schelling’s conclusion that coercion is connected with the threat of violence, it would appear that coercion when defined in these terms would run counter to the prevailing goal of gray zone conflict, which is the inducement of change while attempting to remain below the threshold of war. Therefore, in territorial disputes, coercion may be a less active element of gray zone competition.

⁹² Michael J. Mazarr, “Struggle in the Gray zone and World Order,” War on the Rocks, December 22, 2015, <https://warontherocks.com/2015/12/struggle-in-the-gray-zone-and-world-order/>.

⁹³ Schelling, *Arms and Influence*, 2.

⁹⁴ Green et al., *Countering Coercion in Maritime Asia*, 35.

Fait accompli, on the other hand, which is traditionally relegated as a subset of coercion, is uniquely fitted to explain aspects of gray zone conflict, particularly those involving territorial disputes and the use of China's maritime militias. Dan Altman asserts that a "fait accompli imposes a limited unilateral gain at an adversary's expense in an attempt to get away with that gain when the adversary chooses to relent rather than escalate in retaliation."⁹⁵ A fait accompli strategy attempts to shift the status quo faster than the adversary can respond, as opposed to coercion, where the aggressor seeks consent via threat. The point of a fait accompli is to place the adversary in a position where they must compel the aggressor state into reversing its actions.

A fait accompli favors the aggressor because the adversary state must employ a significantly higher magnitude of force to compel the aggressor state to abandon pursuing the gain or change in status quo. As Van Jackson contends, faits accomplis "stack the deck of strategic interaction in favor of the aggressor at the expense of the defender's preferences by encouraging restraint in the latter."⁹⁶ Ultimately, a fait accompli seeks to avoid conflict or cross red lines that would elicit any response; it is, at its essence, an incremental strategy and, thus, a vital component of any successful gray zone strategy.

In summary, the modern gray zone is fundamentally an environment born of the stability imposed by nuclear weapons and high intensity conflict that irrevocably alter the global social and security environment. Fearing such permanent and irreversible consequences, states pursue methods of change and destabilization well below the threshold of war. Therefore, the stability-instability paradox has resulted in modifications of state instruments of power that can alter the status quo while at the same time managing escalation. The primary escalatory control mechanism through which states seek to achieve change in the gray zone is incrementalism or 'salami slicing.'

Incrementalism, one of three primary characteristics of gray zone activities, enables a state to achieve territorial concessions by fait accompli. The PRC maritime militias are a

⁹⁵ Dan Altman, "By Fait Accompli, Not Coercion: How States Wrest Territory from Their Adversaries" (Atlanta, GA: New International Studies Findings from Georgia State University, February 1, 2018), 5.

⁹⁶ Van Jackson, "Tactics of Strategic Competition," 48.

physical force that can gradually encroach on contested territorial claims and maintain a presence in those areas that carries with it the inherent application of Chinese sovereignty, supporting a *fait accompli*. Maritime militias are uniquely positioned to accomplish this task as they work in non-traditional security roles that are not overtly coercive, but rather are exploiting the ambiguity conferred by their status as civilians. Empirically, *faits accomplis* have proven to be far more effective than coercion for attaining territory. Altman finds that “land grabs attempting to take smaller territories without provoking war as part of a *fait accompli* strategy are now the predominant form of territorial conquest. Conquest has not gone away, but rather has become smaller, more targeted, and less violent.”⁹⁷ In the PRC’s attempt to extend maritime control and not provoke conflict, maritime militias fill a critical role in maintaining the requisite presence to assert sovereignty.

B. PEOPLE’S ARMED FORCES MARITIME MILITIAS – A FORCE MULTIPLIER

Chinese leaders and Beijing elites view the maritime commons of the South (SCS) and East China Seas (ECS) as extensions of China’s national territory. Ryan Martinson asserts, “Chinese leaders believe that the United Nations Convention on the Law of the Sea (UNCLOS) entitles them to jurisdictional rights over three million square kilometers of maritime space.”⁹⁸ In order to exercise dominion over this incredibly broad swath of the maritime commons, China has dramatically expanded naval operations, leveraging the world’s largest fishing fleet as a force multiplier in coordination with the PLA Navy (PLAN) and China’s Maritime Law Enforcement (MLE) forces, including the Chinese Coast Guard (CCG). Abhijit Singh contends that “by acting assertively and unprofessionally in the vicinity of other states, China’s Coast Guard boats and fishing vessels seek to assert dominance in areas surrounding disputed features. Their activities are consciously kept below the threshold of conflict, yet demonstrate China’s resolve to establish control over disputed features.”⁹⁹ China’s maritime militias are one element of its

⁹⁷ Altman, “By *Fait Accompli*,” 16.

⁹⁸ Martinson, *Echelon Defense*, 4.

⁹⁹ Abhijit Singh, “Deciphering Grey-Zone Operations in Maritime-Asia,” *ORF* (blog), accessed August 21, 2018, <https://www.orfonline.org/research/42978-deciphering-grey-zone-operations-in-maritime-asia/>.

maritime forces being used to exercise control over what China perceives as its entitlement. The following section defines exactly what the maritime militias are, how they are controlled, and, lastly, which units are setting the standard for the maturation of maritime militias throughout coastal China.

1. Defining China's Maritime Militias: Tactical Force, Strategic Effect

The maritime militias have been incorporated in various international disputes, including the 1974 Battle of the Paracels. They have supported island reclamation and militarization efforts during the 1990s and, more recently, played a pivotal role in the 2012 Scarborough Shoal seizure. The leading experts, credited with coining the term “People’s Armed Forces Maritime Militia” (PAFMM), Andrew Erickson and Conor Kennedy define militias as “local forces levied by provincial governments to support national defense efforts.”¹⁰⁰ This seemingly simple definition highlights two key features: first, the militias are grassroots, locally sustained elements and, second, there exists an interconnected structure between the militias, the PLA, and the CCP concerning command and control. In an annual report to Congress, the Department of Defense described the maritime militias as a

subset of China’s national militia, an armed reserve force of civilians available for mobilization. The PAFMM is the only government-sanctioned maritime militia in the world. Militia units organize around towns, villages, urban sub-districts, and enterprises, and vary widely in composition and mission. In the South China Sea, the PAFMM plays a significant role in coercive activities to achieve China’s political goals without fighting, part of broader PRC military doctrine stating confrontational operations short of war can be an effective means of accomplishing political objectives.¹⁰¹

The enormity of China’s fishing fleet, which is the source of the maritime militias, cannot be overstated. Greenpeace reports that as of 2014, the total PRC fishing fleet numbered more than 2,400 vessels, which is approximately 10 times larger than the U.S.

¹⁰⁰ Kennedy and Erickson, “Tethered to the PLA,” 3.

¹⁰¹ Office of the Secretary of Defense, “Annual Report to Congress: Military and Security Developments Involving the People’s Republic of China 2018,” Annual Report to Congress (Washington, DC: Department of Defense, May 16, 2018), 72, <https://media.defense.gov/2018/Aug/16/2001955282/-1/-1/1/2018-CHINA-MILITARY-POWER-REPORT.PDF>.

fleet.¹⁰² It should be noted that not all vessels are included in the maritime militia category; however, access to a fleet of this size affords the PRC with significant mobilization capacities. A February 2018 study from the Global Fishing Watch found that “When China and Taiwan are analyzed together, they account for approximately 52% of the industrial fishing effort ... detected on the high seas, which, by reference, is an amount approximately 12 and 27 times greater than the high seas fishing effort detected for the United States and Russia, respectively.”¹⁰³ According to automatic identification system (AIS) data recorded and reported by Global Fishing Watch in 2016, PRC fishing fleet spent approximately 1.7 million hours fishing on the high seas, or 110,300 days, accounting for nearly 30% of global fishing efforts.¹⁰⁴ China’s industrial fishing fleet has no equal and provides the PRC with a global presence.

As a unique element of China’s armed forces, the maritime militias are distinctively positioned to execute gray zone operations that seek to expand and enforce Chinese claims in the SCS and ECS. The maritime militias are a part of a comprehensive, incremental approach by the Chinese, which seeks to employ non-military forces against regional states and powers. The maritime militias are representative of the idea that a tactical force can have a significant strategic effect, or as Erickson and Kennedy assert, the maritime militias “are as political as they are operational.”¹⁰⁵

The maritime militias’ primary role in supporting Chinese national defense strategy has been one of territorial defense. As Singh asserts, “the idea behind Chinese militia operations is to exert authority over a maritime space using civilian craft and personnel, but doing it in a way that precludes open military confrontation.”¹⁰⁶ However, Military District Commander Major General Zhang Jian suggests that there are three roles for

¹⁰² Li Shou, “5 Problems with China’s Distant Water Fishing Industry,” Greenpeace East Asia, August 8, 2016, <http://www.greenpeace.org/eastasia>.

¹⁰³ Douglas J. McCauley et al., “Wealthy Countries Dominate Industrial Fishing,” *Science Advances* 4, no. 8 (August 2018): 4, eaau2161, <https://doi.org/10.1126/sciadv.aau2161>.

¹⁰⁴ McCauley et al. Table S2. Top 20 most active fishing flag states on the high seas in 2016.

¹⁰⁵ Andrew S. Erickson and Conor M. Kennedy, “China’s Maritime Militia,” *Foreign Affairs*, June 23, 2016, <https://www.foreignaffairs.com/articles/china/2016-06-23/chinas-maritime-militia>.

¹⁰⁶ Singh, “Deciphering Grey-Zone Operations in Maritime-Asia.”

maritime militias in support of Chinese interests that are broader than territorial defense. Zhang writes that these three roles include using “civilians against civilians for regular demonstration of rights,” “special cases of rights protection by using civilians in cooperation with law enforcement,” and “participation in combat and support-the-front by using civilians to support the military.”¹⁰⁷ Each of these roles fundamentally exploits the use of civilians as a paramilitary force to execute operations that, when conducted by traditional military forces, would likely increase the risk of war. Thus, intrinsically the employment of maritime militias represents a concerted effort to control the escalation of force by undermining regional military actors’ ability to oppose Chinese civilians without using a seemingly disproportionate use of force. Arguably, this strategy is preferred to an alternative in which traditional military forces engaged in open hostilities, which would more overtly destabilize the region.

2. Dual-Track Command and Control

The force generation and regulation of militias rely heavily on the strength of civil-military relations. In most socialist states, civil-military relations can be more aptly characterized as “party-army relations.” Party-army relations is a particularly salient element given that the PLA can be considered the action element of the CCP. The relationship between socialist states and civil-military relations explains the dual-track leadership that it is characteristic of the PAFMM from the highest levels of government to the lowest provincial levels. Shinji Yamaguchi explains this relationship, stating that “at the levels of provincial military districts and sub-districts, militia are organized and trained under the People’s Armed Forces Departments of local governments. The National Defense Mobilization Committee coordinates local governments and the military.”¹⁰⁸ While overlap exists concerning administrative control, the National Defense Mobilization Committee and the People’s Armed Forces Departments are responsible for different

¹⁰⁷ Zhang Jian, “Advance the Transformation of Maritime Militia Centered on ‘Six Changes,’” *National Defense* 10 (2015), <http://kns55.cn.eastview.com/kcms/detail/detail.aspx?recid=&FileName=GUOF201510009&DbName=CJFD2015&DbCode=CJFD>.

¹⁰⁸ Shinji Yamaguchi, “Strategies of China’s Maritime Actors in the South China Sea,” *China Perspectives*; *Wanchai*, no. 3 (2016): 24.

aspects of operational and tactical employment. The following examines the differences in administrative and tactical control of the maritime militias from both the national and provincial level.

a. National Control

As of 2016 reforms, the National Defense Mobilization Department (NDMD) is now one of seven functional departments directly subordinated to the Central Military Commission (CMC), headed by President Xi Jinping. Erickson and Kennedy explain that NDMD is a “consulting and coordinating body in ‘charge of organizing, directing and coordinating nationwide national defense mobilization.’ The committee plays a major role in ensuring that national resources can swiftly be transferred towards war or national emergency efforts.”¹⁰⁹ In 2016, Sheng Bin, Minister of National Defense Mobilization of the Central Military Commission, discussed how the NDMD would pursue expanded mobilization for national defense, explicitly addressing maritime militias. Sheng asserted that China must “vigorously strengthen the building of national defense mobilization forces. Adjust and optimize the size, structure and layout of the militia and reserve forces, highlight the construction of maritime militia ... [and] promote the construction of national defense mobilization to the ocean.”¹¹⁰ The primary purpose of the NDMD is to establish unity of effort and leadership for continued national defense mobilization. Erickson asserts that “overall militia policy is first set in Beijing.”¹¹¹ Therefore, NDMD leadership is crucial in translating the national agenda, guiding the development of maritime militias, and regulating tactics, training, and procedures.

b. Provincial Command

Below the NDMD level of control is the command of Provincial Military Districts (MD). The MD are the direct link between PLA leadership and the subordinate People’s Armed Forces Detachments (PAFD) under which the PAFMM are further subordinated.

¹⁰⁹ Erickson and Kennedy, “China’s Maritime Militia.” 8.

¹¹⁰ “Sheng Bin, Accelerate the Construction..”

¹¹¹ Andrew Erickson, “Hainan’s Maritime Militia.”

Erickson and Kennedy clarify this division: “The local PLA commands... then organize, train, and command the militia units.”¹¹² Below the provincial level are the PAFDs, which are separated into county-level and grassroots-level. Erickson and Kennedy explain:

The county-level PAFDs, through which PAFMM communications and directives—such as mobilization and mission orders—must typically pass, are manned by active duty PLA personnel. Below them, the grassroots PAFDs are manned by civilian cadres whose salaries are paid by local governments and sometimes work on a part-time basis. These grassroots PAFDs are the closest interface through which militia interact with the PLA command on a regular basis, as their direct managers for recruitment, planning, organization, training, and policy execution.¹¹³

Arguably, the most significant aspect of this relationship is the direct role that active duty PLA personnel play in the employment of the maritime militias. This point harkens back to the idea of party-army relations and the significance of civil-military relations regarding militia mobilization. Thus, from a security policy perspective, this confirms that the maritime militias are a conduit for CCP strategic objectives regarding territorial disputes in the SCS and ECS.

3. Leading the Way: Hainan Island Militias

Chinese open sources are replete with discussions of the expansion of militias. A recent article in 2016 titled, “Accelerate the Reserve Force, Build Transformation and Development,” calls for the expansion of maritime militias along China’s more than 9,000 miles of coastline.¹¹⁴ Arguably, the preeminent organization for which all subsequent militias will be modeled are the militias of Hainan Island, which Eric Martinson attests is “the province that nominally exercises jurisdiction over all two million square kilometers of Chinese-claimed waters in the South China Sea.”¹¹⁵ Hainan Island’s strategic position has given rise to four significant maritime militias—Tanmen, Sanya, Danzhou, and

¹¹² Kennedy and Erickson, “Tethered to the PLA,” 3.

¹¹³ Kennedy and Erickson, 3.

¹¹⁴ Huang Xiangliang, “Accelerate the Reserve Force, Build Transformation and Development,” China Military Network, March 18, 2016, <http://military.people.com.cn/n1/2016/0318/c1011-28209150.html>.

¹¹⁵ Martinson, *Echelon Defense*, 19.

Sanya—which have established a reputation among the Chinese for their courage, but among regional actors as antagonists threatening established international norms. Erickson and Kennedy echo this point, contending that Hainan Island represents a “standing, front-line force whose leading units are lauded as models for other localities to emulate.”¹¹⁶ These four militias have been the primary actors in numerous maritime disputes within the SCS and are unquestionably the leading edge of China’s maritime gray zone strategy.

Hainan provincial leadership has essentially written the book on building maritime militias. In 2015, Political Commissar of Hainan Island Liu Xin published an article in *China’s National Defense Journal*, stating “China’s coastal defense security situation is complex and full of variables. We must conscientiously study and implement the important instructions of President Xi on strengthening the construction of maritime militias and safeguarding the national maritime rights and interests.”¹¹⁷ Commissar Liu subsequently expanded on this and, in 2016, authored the “The 13th Five-Year Plan for the Construction of Maritime Militia in Hainan Province.” The 13th Five-Year plan stipulates a systematic approach to the tasking and employment of the militias, force generation, institutional dogma, and separation of responsibilities. The Hainan model of maritime militia generation is increasingly significant as China continues to exploit the maritime commons via aggressive gray zone tactics. If China remains mostly undeterred in its activities in the SCS, the region will see these militias spread, further disrupting the regional balance with potential implications well beyond the first island chain.

C. CONCLUSION: CHINA’S MARITIME MILITIAS A GRAY ZONE FORCE

Using the three characteristics of the gray zone, ambiguity, asymmetry, and incrementalism, a strong case can be made that China’s maritime militias are a gray zone force that operates below the threshold of war. Maritime Militia activities thrive on ambiguity and, as a result, are an asymmetric force multiplier given the sheer volume of

¹¹⁶ Andrew Erickson, “Hainan’s Maritime Militia.”

¹¹⁷ Liu Xin, “Focusing on Complex and Changeable Marine Safety Environment, Focusing on Preparing for the Maritime Militia,” *National Defense*, December 7, 2015, <http://kns55.cn.eastview.com/kcms/detail/detail.aspx?recid=&FileName=GUOF201512011&DbName=CJFD2015&DbCode=CJFD>.

vessels that can be impressed into service. The ambiguous nature of the militias affords the PRC with plausible deniability due to their lack of international recognition as threats in the maritime domain. Therefore, Beijing can ostensibly maintain a narrative that actions of maritime militias are the consequence of independent nationalist actors and not sanctioned by the government. However, as previously discussed, substantial information exists that connects the highest levels of CCP leadership with maritime militia activities. Additionally, the size of the fishing fleet further contributes to the issue of ambiguity because states are limited in their ability to differentiate maritime militias from traditional fishing activities.

Ultimately, these dynamisms cause regional and international actors to assume that all Chinese flagged fishing vessels are potential militia elements and, thus, extensions of Beijing's maritime strategy. Having to contend with a maritime militia force of the magnitude of China's consequently stresses regional and international states who cannot effectively restrain Beijing's third sea force. Valery Gerasimov echoes this point, stating that "the very 'rules of war' have changed. The role of nonmilitary means of achieving political and strategic goals has grown, and, in many cases, they have exceeded the power of force of weapons in their effectiveness."¹¹⁸ Revisionist states, like China, have effectively employed forces that capitalize on ambiguity, severely frustrating adversaries' decision-making. Doug Livermore stresses that China "deploys maritime militias throughout the region to reinforce its claim[s], sowing confusion as the opposing naval forces are uncertain of how exactly to respond."¹¹⁹ Beijing's decision to use ambiguous non-conventional forces to control escalation is a means to achieve victory short of war, to "win without fighting."

The maritime militias are a critical aspect of China's incremental approach to territorial disputes via *fait accompli* strategy in the maritime domain. Mazaar asserts that revisionist "states want to overturn elements of the system without causing general instability. They tend to be patient enough to take a piecemeal approach if it will help

¹¹⁸ Valery Gerasimov, "The Value of Science Is in the Foresight," *Military Review* 96, no. 1 (January 2016): 24.

¹¹⁹ Livermore, "Three Warfares in Theory."

balance their mixed goals of transformation and stability.”¹²⁰ The maritime militias afford China presence without threat and are for that reason far less likely to destabilize the region. China can therefore maintain a fast network of forward maritime observers that are in the first line of off-shore defense.

The vastness of the fishing fleet affords the Chinese with a force that can maintain a persistent presence near contested islands and features, allowing for the gradual acceptance by the international community of Chinese sovereignty. Like ambiguity, incremental approaches make it exceedingly complicated for states to determine if any singular action breaches the threshold that would prompt a counter-action. China’s gray zone operations and use of maritime militias ought to be signal to the international community that China is serious about imposing its claims. Maritime militia presence can be compared to what Martinson refers to as the “act of dropping sovereignty markers.”¹²¹ This, according to one Chinese source quoted by Martinson, “allows China to ‘quietly express its strong will’ to defend its sovereignty ... In this respect, then, Chinese ships serve to perpetuate a national myth.”¹²² Beijing’s maritime militia use is strong evidence of China’s gray zone strategy, which seeks to incrementally shift the status quo in favor of the PRC’s territorial maritime claims.

The subsequent chapter will explore in greater detail People’s Armed Forces Maritime Militia’s role in China’s gray zone strategy. Analysis will focus on three cases in which the participation and presence of the maritime militias constrained incidents at sea that might have otherwise resulted in conflict if traditional military forces were the spearhead of the action. In keeping with the characteristics of gray zone conflict, the case studies reflect the ambiguity of territorial disputes, the asymmetry of a civilian fishing fleet versus regional military actors, and China’s incremental *fait accompli* strategy in its near maritime commons.

¹²⁰ Mazarr, “Mastering the Gray Zone,” 38.

¹²¹ Martinson, *Echelon Defense*, 40.

¹²² Martinson, 40.

IV. CASE STUDIES – THE GRAY ZONE AT SEA

This chapter examines three incidences at sea in which China’s maritime militias have played a prominent role. It should be noted, however, that, with regard to Chinese coercion and gray zone activities, there exists a litany of incidences beyond those including maritime militias. These three incidents were chosen for the following analytical reasons. First, the cases are sourced from the broader well-defined research regarding Chinese maritime coercion. Second, these three particular cases of maritime coercion are demonstrative of maritime militia participation as a critical element of each dispute. Third, the three cases indicate a trend line from 2009–2014 that suggests the maritime militia forces are expanding in both size and capability. Additional incidences of Chinese coercion span the breadth of the national instruments of power.¹²³ Actions of this nature, regardless of the provocateur, can be considered detrimental to the international order. To best address the thesis’ primary research question—how do China’s maritime militias participating in gray zone conflict impact international relations—this chapter considers the 2009 intimidation of the USNS Impeccable, 2012 Scarborough Shoal Standoff, and 2014 Vietnam oil rig dispute.

A. CASE 1: INTIMIDATION OF THE USNS IMPECCABLE – 2009

1. Overview

In March 2009, the USNS Impeccable was conducting routine ocean surveillance operations approximately 75 nautical miles south of Hainan Island, when it was challenged by Chinese forces that included naval surface vessels, maritime reconnaissance aircraft, and civilian fishing trawlers. The Chinese forces employed various tactics and procedures in an attempt to intimidate the USNS Impeccable, resulting in the ship’s eventual departure from the area. Chinese fishing trawlers, acting as militia units, dumped debris in front of the Impeccable and attempted to sever its towed array SONAR, forcing the Impeccable to alter course. Chinese naval vessels and fishing trawlers maneuvered in both an

¹²³ Ketian V. Zhang, “Chinese Non-Military Coercion—Tactics and Rationale,” Brookings, January 22, 2019, <https://www.brookings.edu/articles/chinese-non-military-coercion-tactics-and-rationale/>.

unprofessional and unsafe manner. As with prior instances of Chinese objection regarding U.S. operations in the South China Sea, diplomatic exchanges between the United States and the PRC restored the status quo. However, the exchanges failed to produce any lasting resolution. Later in March, the USNS Impeccable was escorted back to the surveillance area under the guard of the USS Chung-Hoon, DDG-93; In this case, China did not respond. Nevertheless, routine harassment of U.S. forces continued throughout 2009.

2. Contextual Analysis: Freedom of the Oceans – Exclusive Economic Zone (EEZ) Rights

Central to the 2009 incident is the competing narrative between Washington and Beijing concerning the freedom of the seas and jurisdictional rights in a nation's exclusive economic zones. The crux of the legal conflict rests on each nation's interpretation of a coastal state's sovereign right to administer and regulate its EEZ, defined in the 1982 UN Convention on the Law of the Sea (UNCLOS). More narrowly defined, it is the issue of whether the coastal states are permitted to police military activities beyond territorial waters. Beijing supports a coastal state's right to police and regulate military activities beyond territorial waters extending out the 200 nautical miles (nm) afforded by the EEZ.¹²⁴ However, Washington vehemently opposes China's interpretation, asserting that the coastal states are not allowed to exercise jurisdiction beyond territorial waters over flagged state vessels if they are engaged in permissible, peaceful activities.

The 1982 UNCLOS establishes that coastal states have certain economic and scientific sovereign rights extending 200 nm from their territorial baselines. UNCLOS Article 56 declares that within the EEZ:

The coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone ... [and] establishment and use of artificial

¹²⁴ Ronald O'Rourke, *Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress*, CRS Report No. R42784 (Washington, DC: Congressional Research Service, April 26, 2018), 5.

islands, installations, and structures; marine scientific research; the protection and preservation of the marine environment.¹²⁵

China has used language in Article 56, as well as Article 246, which allows coastal states to regulate marine scientific research in the EEZ, to justify restricting and interfering with a state's attempt to conduct intelligence, reconnaissance, and surveillance activities within China's EEZ.¹²⁶ Regardless of Chinese assertions, the United States consistently extolls the rights of all states to have access to the maritime commons, citing Article 87 of UNCLOS, which states that:

These freedoms shall be exercised by all States ... freedom of navigation; freedom of overflight; freedom to lay submarine cables and pipelines; freedom to construct artificial islands and other installations permitted under international law; freedom of fishing; freedom of scientific research.¹²⁷

Further contributing to the fractious debate concerning EEZ rights has been Beijing's use of domestic law to reinforce its claims. To reinforce its expansive EEZ claims, China's domestic laws have been written to explicitly prohibit foreign military operations, which include intelligence collections. As China seeks to impose unilateral domestic legislation that conflicts with UNCLOS, it has simultaneously sent PLAN units into other nation's EEZ and territorial waters. DoD remarked in its 2018 annual report to Congress that "This contradiction highlights China's continued lack of commitment to the rules of customary international law."¹²⁸ Understanding the EEZ debate is critical to understanding the broader implications arising from the harassment of the USNS

¹²⁵ "United Nations Convention on the Law of the Sea," United Nations, December 10, 1982, http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm.

¹²⁶ Robert Beckman and Tara Davenport, "The EEZ Regime: Reflections after 30 Years," in *Law of the Sea Institute, UC Berkeley–Korea Institute of Ocean Science and Technology Conference 2012* (Securing the Ocean for the Next Generation, Seoul, Korea: U.S. Berkeley, 2012), 28, <https://www.law.berkeley.edu/files/Beckman-Davenport-final.pdf>.

¹²⁷ "United Nations Convention on the Law of the Sea."

¹²⁸ Office of the Secretary of Defense, "Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2018," Annual Report to Congress (Washington, DC: Department of Defense, May 16, 2018), 67, <https://media.defense.gov/2018/Aug/16/2001955282/-1/-1/1/2018-CHINA-MILITARY-POWER-REPORT.PDF>.

Impeccable. Of note, China's interpretation of UNCLOS and the adoption of domestic legislation are issues that are inherent to all three case studies.

Nearly all nations agree with the U.S. interpretation; however, 27 countries agree with China's interpretation of EEZ rights regarding the regulation of foreign military operations. The U.S. Navy identifies the following nations in the minority interpretation:

Bangladesh, Brazil, Burma, Cambodia, Cape Verde, China, Egypt, Haiti, India, Iran, Kenya, Malaysia, Maldives, Mauritius, North Korea, Pakistan, Portugal, Saudi Arabia, Somalia, Sri Lanka, Sudan, Syria, Thailand, United Arab Emirates, Uruguay, Venezuela, and Vietnam.¹²⁹

Regardless, it is unlikely that the 160 plus signatories of UNCLOS would seek to redefine the EEZ issue in favor of China's interpretation.

3. Event Timeline

According to a Pentagon statement released on March 9, 2009, from March 5–8 the USNS Impeccable was harassed by six Chinese units, including one PLAN intelligence collection ship, a State Oceanographic Administration vessel, two Chinese-flagged trawlers from Sanya City, and one maritime patrol reconnaissance aircraft approximately 75 miles south of Hainan Island.¹³⁰ The most severe harassment occurred on March 8th, when the five Chinese vessels collectively encircled the USNS Impeccable, maneuvering aggressively, without due regard for safety and with the specific purpose of restricting the USNS Impeccable's intended movement.

The incident took shape beginning on March 5, when the USNS Impeccable was conducting operations in support of hydrographic research. It should be noted that the presence of the Impeccable could be potentially attributed to the continued naval infrastructure improvements that have been underway on Hainan Island since 2005, which support the forward deployment of ballistic missile submarines (SSBN). According to Hans M. Kristensen, "the Chinese navy has deployed a Jin-class (Type 094) ballistic

¹²⁹ O'Rourke, "Maritime Territorial and EEZ Disputes."

¹³⁰ "Raw Data: Pentagon Statement on Chinese Incident with U.S. Navy," Fox News, March 9, 2009, <https://www.foxnews.com/politics/raw-data-pentagon-statement-on-chinese-incident-with-u-s-navy>.

missile submarine to a new base near Yulin on Hainan Island on the South China Sea, according to a satellite image” obtained February 27, 2008.¹³¹ Kristensen adds that “the base on Hainan Island is near deep water and some analysts suggest this will support submarine patrols better than [sic] operations from the Northern Fleet base at Jianggezhuang.”¹³² Thus, the Impeccable’s routine operations could have potentially correlated to the collection of data that supports U.S. Navy’s Anti-Submarine Warfare (ASW) patrols, which in turn elicited a response from Chinese authorities.

The following timeline is derived from the Pentagon’s released statement. On March 5, 2009, a Chinese frigate, “without notice or warning” moved to intercept the USNS Impeccable while it was conducting routine operations in the South China Sea.¹³³ The frigate crossed the Impeccable’s bow at the closest point of approach (CPA) of roughly 100 yards. Following the frigate’s aggressive maneuvers, a Chinese maritime patrol reconnaissance aircraft (MPRA), a Y-12, was directed to harass the Impeccable. According to the Pentagon statement: “Chinese Y-12 aircraft conduct[ed] 11 fly-bys of Impeccable at an altitude of 600 feet and a range from 100–300 feet.”¹³⁴ The Chinese frigate again crossed the bow of the Impeccable, at a CPA of nearly 400–500 yards, without due regard for the rules of the road. Of note, on March 4, 2009, the USNS Victorious suffered from similar harassment but the aggressors did not include fishing trawlers.

On March 7, the PRC dispatched an intelligence collection ship (AGI) to challenge the Impeccable. The Pentagon reports that the AGI used bridge-to-bridge communications, informing the Impeccable that her operations violated international law and directed her to leave the operating area or “suffer the consequences.”¹³⁵ The Impeccable remained on station, continuing operations. However, on March 8, the most severe harassment occurred,

¹³¹ Hans M Kristensen, “New Chinese SSBN Deploys to Hainan Island,” Federation of American Scientists, April 24, 2008, <https://fas.org/blogs/security/2008/04/new-chinese-ssbn-deploys-to-hainan-island-naval-base/>.

¹³² Kristensen, “New Chinese SSBN.”

¹³³ Fox News, “Raw Data: Pentagon Statement.”

¹³⁴ Fox News.

¹³⁵ Fox News.

forcing the USNS Impeccable to leave the area. The Pentagon describes the incidents on March 8 as follows:

Five Chinese vessels shadowed and aggressively maneuvered in dangerously close proximity to USNS Impeccable, in an apparent coordinated effort to harass the U.S. ocean surveillance ship while it was conducting routine operations in international waters. The Chinese vessels surrounded USNS Impeccable, two of them closing to within 50 feet, waving Chinese flags and telling Impeccable to leave the area. Because the vessels' intentions were not known, Impeccable sprayed its fire hoses at one of the vessels in order to protect itself. The Chinese crewmembers disrobed to their underwear and continued closing to within 25 feet.

USNS Impeccable's master used bridge-to-bridge radio circuits to inform the Chinese ships in a friendly manner that it was leaving the area and requested a safe path to navigate. A short time later, two of the PRC vessels stopped directly ahead of USNS Impeccable, forcing Impeccable to conduct an emergency "all stop" in order to avoid a collision. They dropped pieces of wood in the water directly in front of Impeccable's path.¹³⁶

One of the most notable actions committed by the Chinese fishing trawlers was an attempt to sever the USNS Impeccable's undersea towed array. This action is a particularly aggressive and heavy-handed tactic for civilian fishermen to attempt. These actions delineate these units from typical civilian fishing fleets and reinforce the assertion that they were militia units. Furthermore, the trawlers operated from Sanya City, on Hainan Island, which is home to the most respected and arguably elite maritime militia units. According to Erickson and Kennedy, "one of the trawlers involved, hull number F8399, belonged to Fugang Fisheries."¹³⁷ They explain that Fugang Fisheries "is itself at the vanguard" of militia units and is a "leading participant in ... harassment of foreign vessels ... in the SCS."¹³⁸ One can argue that this case was an operational test of potential militia capability and their value to escalation control. The presence of the fishermen, who at the time were not identified as militia units, were able to exploit two of the primary characteristics of

¹³⁶ Fox News.

¹³⁷ Andrew S. Erickson and Conor M. Kennedy, "China's Daring Vanguard: Introducing Sanya City's Maritime Militia," Center for International Maritime Security, November 5, 2015, <http://cimsec.org/chinas-daring-vanguard-introducing-sanya-citys-maritime-militia/19753>.

¹³⁸ Erickson and Kennedy, "China's Daring Vanguard."

gray zone conflict, ambiguity and asymmetry. The status and tactics of the fishing trawlers confused the Impeccable's captain, who did not know how to respond with limited capability was forced to leave the area. Had it been a PRC military unit, attempted the same action, there might have been an increased potential for attributing hostile intent to military action, leading to escalation or miscalculation.

The timeline and statement issued by the Pentagon are affirmed by both video and pictures collected by the crew of the USNS Impeccable, regardless of Beijing's counterclaims. Furthermore, Jonathan Odom asserts that "the U.S. government was candid, clear, and consistent in its factual account of the March 8th incident and provided detailed corroboration to the international community; the PRC government, on the other hand, was cryptic at best, and misleading at worst."¹³⁹ The USNS Impeccable was able to capture media that could not be countered, as well as capturing images of fishing trawlers acting as maritime militia units, collaborating with PLAN and SOA forces. The fishing trawlers, performing maritime militia duties, were responsible for the most serious and dangerous activities in March 2009. The militia actions ultimately forced the master of the Impeccable to issue the order to leave the area.

From March 9–12, Washington, DC and Beijing engaged in a series of diplomatic exchanges. Foreign Ministry Spokesperson Ma Zhaoxu stated in a press conference on March 10 that "the U.S. ship [USNS Impeccable] engaged in activities in China's exclusive economic zone without China's permission, and broke the international law as well as Chinese laws and regulations."¹⁴⁰ Chinese claims asserting a violation of jurisdiction due to lack of permission is a non-issue, as the activities occurred outside of territorial waters. Each government continued with rebuttals until March 12, when the USS Chung-Hoon, a modern DDG, was deployed to support the continuation of the Impeccable's operations in the South China Sea. On March 20, the China Daily released an article, based on unnamed PLAN sources, that stated, "the Chinese military is ready to call an end to the standoff with

¹³⁹ Jonathan G. Odom, "The True 'Lies' of the Impeccable Incident: What Really Happened, Who Disregarded International Law, And Why Every Nation (Outside Of China) Should Be Concerned," *Michigan State Journal of International Law* 18, no. 3 (2010): 4.

¹⁴⁰ Ma Zhaoxu, "Foreign Ministry Spokesperson Ma Zhaoxu's Regular Press Conference on March 10, 2009" (Press Conference, March 10, 2009), <http://www.china-embassy.org/eng/fyrth/t541713.htm>.

the United States in the South China Sea after diplomatic efforts have reduced tensions,”¹⁴¹ effectively ending the standoff.

4. Findings and Implications

First, the 2009 case affirms that maritime militia units can have tremendous operational and strategic effect while operating in the gray zone. Erickson and Kennedy contend that “the fishing trawlers, although dwarfed by the Impeccable, were successful in disrupting the normal operations of the U.S. vessel” for a period of time; however, the United State resumed operations as it had done for years before.¹⁴² Unable to discern the intent of the belligerents, the Impeccable’s master was forced to withdraw from the area. The U.S. operational pause in the South China Sea from March 9–15 gave the Chinese increased maneuver space to adjust its operational patterns, which subsequently imposed increased costs on the U.S. Navy’s operations in the area by adding armed escorts, even if for a limited period.

Second, fishing trawlers in and of themselves do not present a clear and present danger. Beijing subsequently shifted the narrative back to enhancing cooperation, only after having altered U.S. naval operations for a week. Beijing’s narrative manipulation is affirmed by the director of a military thinktank, the China Foundation for International and Strategic Studies, Col (ret.) Zhang Tuosheng, who told the China Daily on March 20, 2009, that neither party wants the situation to get worse “because both sides have so many areas they share interests in.”¹⁴³ Two days before Zhang’s statement, U.S. Defense Secretary Robert Gates also downplayed the incident and championed cooperation. When asked by a reporter concerning military-to-military cooperation and the Impeccable incident, SECDEF Gates responded by stating, “I would like to see us put this behind us, not have another incident like it, and continue that improvement in the relationship.”¹⁴⁴ U.S.

¹⁴¹ Cui Xiaohuo, “Sino-US Sea Standoff Appears to Have Ended,” *China Daily*, March 20, 2009, http://www.chinadaily.com.cn/china/2009-03/20/content_7597433.htm.

¹⁴² Erickson and Kennedy, “China’s Daring Vanguard.”

¹⁴³ Xiaohuo, “Sino-US Sea Standoff.”

¹⁴⁴ Robert Gates, “DoD News Briefing with Secretary Gates From the Pentagon” (Press Conference, March 18, 2009), <http://archive.defense.gov/transcripts/transcript.aspx?transcriptid=4381>.

officials had the opportunity to respond more assertively to Chinese actions and employment of proxy forces in the South China Sea; however, D.C. erred on the side of caution, favoring dialogue over direct action. Nonetheless, the next patrol was escorted by a U.S. warship.

Third, the use of maritime militias likely supported a broader effort by Beijing and Hu Jintao that was designed as a litmus test by which to judge President Obama's new administration and the Pacific Rebalance. When asked if it was a test of U.S. resolve, Former National Security Council Director to President Obama, Evan Medeiros, said, "It was unclear" and that it is difficult to "attribute agency to its top leaders ... But, regardless you still have to assume that there is sufficient agency there."¹⁴⁵ The situation did not escalate to conflict, and Beijing effectively learned how the United States would respond over the next eight years to continued harassment of U.S. forces operating in the area. In effect, maritime militias provide Beijing with a low-end kinetic capability to test adversary military reactions and diplomatic posturing. The 2009 incident is in effect evidence of a gray zone strategy that uses an asymmetric force, the exact motivations of which are ambiguous but ultimately serve to alter the environment, complicating the decision-making of tactical commanders. Ambiguous and asymmetric gray zone tactics introduce uncertainty, resulting in a sort of cognitive dissonance for leaders and commanders.

B. CASE 2: SCARBOROUGH SHOAL STANDOFF – 2012

1. Overview

In April of 2010, Beijing and Manila entered into a two-month confrontation concerning the enforcement and administration of Scarborough Shoal. On April 8, the Philippines responded to reports of illegal Chinese poaching by deploying its most capable warship, the BRP Gregorio del Pilar, to investigate and arrest individuals conducting illegal fishing activities. China viewed this as an escalation by the Philippines and responded by deploying units that prevented the arrest of Chinese fishermen. Regardless

¹⁴⁵ Bonnie S. Glaser and Evan Medeiros, "Obama's Legacy in US-China Relations: A Conversation with Evan Medeiros" (Podcast) Center for Strategic and International Studies, September 29, 2016, <https://soundcloud.com/csis-57169780/obamas-legacy-with-evan-medeiros>.

of China's perception of escalation, the Philippines had responded in the past to the presence of Chinese fishermen using both Navy and Coast Guard vessels. After the initial deployment of forces, each side settled into the standoff in an attempt to negotiate a resolution. Manila sought support from the international community and regional partners in order to broker a deal. Throughout this period though, China escalated the situation via economic coercion and continued harassment of Philippine vessels. The deadlock eventually ended in late June; however, the resolution failed to restore the status quo, and Beijing assumed control of the waters surrounding the shoal in July of 2012.

2. Contextual Analysis: Claimant Dispute – Beijing vs. Manila

An essential element of the 2012 standoff is the historical disagreement regarding sovereignty and administration of the shoal. Scarborough Shoal, also known as Bajo De Masinloc by the Philippines or Huangyan Island by China, is a disputed atoll located in the South China Sea. The shoal is located approximately 150 miles west of the Philippines within its EEZ and 550 miles southeast of mainland China. The shoal is a historic fishing ground for the Philippines but offers little else in other economic value. Dr. Batongbacal, of the Institute for Maritime and Ocean Affairs, stresses that

Data from petroleum exploration and international marine scientific research activities have thus far convinced petroleum exploration companies that if any petroleum is to be found in the South China Sea, it will be in areas closer to the coasts... Contrary to popular perception, current Philippine interests in resources there are not about petroleum, but rather about more limited fishing interests.¹⁴⁶

Chinese interests in the shoal are connected to international shipping, freedom of navigation, and commercial and military air routes. Dr. Batongbacal asserts that “Bajo de Masinloc is strategically positioned as a vantage point from which to surveil shipping and air traffic in the South China Sea ... The fact that Bajo de Masinloc also lies directly adjacent to Manila and Subic emphasizes its strategic importance for air and sea

¹⁴⁶ Dr. Jay L. Batongbacal, “Bajo De Masinloc (Scarborough Shoal): Less-Known Facts Vs. Published Fiction” (Lecture, September 26, 2014), <http://www.imoa.ph/bajo-de-masinloc-scarborough-shoal-less-known-facts-vs-published-fiction/>.

navigation.”¹⁴⁷ These facts have driven the Chinese to more aggressively pursue occupation and administration of the shoal, in conjunction with its maritime expansion. It is possible and highly conceivable that China would use the shoal to construct a fixed radar site that could potentially close gaps in its maritime domain awareness in the eastern South China Sea. Although the shoal has been an issue for many decades, it was not until the early 1990s that the atoll became such a flashpoint.

The United States assumed control of Scarborough Shoal from the Spanish in accordance with the 1900 Treaty of Washington; in 1946, the United States recognized the shoal’s independence, at which point the Philippines assumed claim. Green asserts that “around the same time, in 1947 the Republic of China declared sovereignty over 172 land features in the South China Sea following initial map verification work in the mid-1930s. This list included Scarborough Shoal (then called Minzhu Reef) as part of what China calls the Zhongsha Islands.”¹⁴⁸ Regardless of the validity of each nation’s claim, the stage was set for an eventual standoff.

Throughout the 1990s, China routinely directed civilian voyages in attempt to assert sovereignty over the features. Manila increased security of the shoal in an attempt to maintain sovereignty and resist an increasingly aggressive Beijing. This resulted in the first major incident between the Philippines and China in May of 1997. Manila responded to the presence of Chinese vessels, preventing access to the shoal and consequently arresting 21 Chinese fishermen. Following the incident, Manila increased presence patrols and more aggressively pursued the arrest of Chinese fishermen. This type of activity is highly characteristic of the relationship between China and the Philippines regarding the shoal throughout the ‘90s and into the 2000s.¹⁴⁹ One of the most notable examples of Chinese

¹⁴⁷ Batongbacal, “Bajo De Masinloc.”

¹⁴⁸ Michael Green et al., *Countering Coercion in Maritime Asia: The Theory and Practice of Gray Zone Deterrence*, 287 vols. (Washington, DC: Center for Strategic and International Studies, 2018), 96.

¹⁴⁹ Green et al., *Countering Coercion*, 96–97.

aggression during the period was the seizure of Mischief Reef by China in 1994, which is within territorial waters claimed by the Philippines.¹⁵⁰

Efforts of regional institutions, such as ASEAN, to manage the disagreement found little success. The 2002 China-ASEAN Declaration on the Conduct of Parties was in part designed to reduce tensions in that signatories agreed not to inhabit features, shoals, or islands not presently inhabited. However, according to Joshua Rowan, “the declaration is merely a political statement, not a legally binding document. If one party violates a provision, there is no method for enforcement.”¹⁵¹ Although it is not unusual for legally binding documents not to have an overt enforcement mechanism, the lack of prosecutorial authority invites abuse. Continued diplomatic jockeying in the 2000s, along with continued incursions by the Chinese into areas surrounding the Shoal, inevitably led to the 2012 standoff.

3. Event Timeline

On April 8, 2012, a Philippine reconnaissance aircraft located eight Chinese fishing vessels anchored in a lagoon at Scarborough Shoal. Having identified the Chinese fishing vessels, the Philippines directed its largest and most modern warship—the BRP Gregorio Del Pilar, which it had purchased the year prior from the United States—to investigate the activities of the Chinese fishing vessels. As previously discussed, it is not outside the historical operational norms for the Philippines to respond to Chinese fishermen’s presence using either Navy or Coast Guard ships. The Philippine’s Department of Foreign Affairs said in a statement that “PF-15 confirmed the presence of the eight Chinese fishing vessels anchored inside the lagoon of the Shoal. The PN vessel remained in the vicinity of the Shoal for continuous monitoring of the fishing vessels.”¹⁵² On April 10, sailors of the Pillar boarded the fishing vessels and discovered large quantities of illegally poached marine life.

¹⁵⁰ Brian Morton, “China’s Pond: The South China Sea. There’s Going to Be Tears!,” *Marine Pollution Bulletin* 106, no. 1–2 (May 2016): 1, <https://doi.org/10.1016/j.marpolbul.2015.12.050>.

¹⁵¹ Joshua P Rowan, “The U.S.-Japan Security Alliance, ASEAN, and The South China Sea Dispute,” *Asian Survey* 45, no. 3 (2005): 434.

¹⁵² KD Suarez, “PH Navy in Standoff with Chinese Ships,” *Rappler*, April 11, 2012, <https://www.rappler.com/nation/3671-ph-navy-in-standoff-with-chinese-ships>.

Chinese fishermen were found to have illegally poached coral, giant clams, and species of sharks, violating Philippine laws.¹⁵³ After Philippine sailors disembarked the Chinese fishing vessels, Chinese fishermen promptly called authorities located on Hainan Island. Roel Landingin and Katrin Hille reported that

According to the fishermen, with whom the fisheries officials in Tanmen are in constant satellite phone contact, the Philippine warship arrived at 7:30 am on Tuesday [April 10] and blocked the entrance to the atoll. Twelve soldiers entered the 15 fishing vessels and threatened the Chinese fishermen, the Tanmen official said. In response to the fishermen's calls for help, China Maritime Surveillance sent two ships which arrived at 1 pm on Tuesday.¹⁵⁴

Beijing dispatched China Marine Surveillance Ship (CMS) Zhongguo Haijian 75 and CMS Zhonggou Haijian 84, which subsequently moved to block the entrance of the shoal, preventing the Philippine authorities from entering and arresting the fishermen. Although both sides report conflicting numbers of Chinese fishing vessels operating in the area, Erickson and Kennedy assert that there was a total of 12 vessels:

Six fishing vessels were outside the lagoon at the time, including that of Tanmen maritime militia Company Deputy Commander Wang Shumao, who led an unsuccessful effort to block Philippine fishing vessels from approaching the shoal. The other six fishing vessels present inside the lagoon, two of which are confirmed maritime militia vessels, were trapped when Philippine forces blocked the lagoon's opening.¹⁵⁵

Regardless of the exact number of vessels, the fact that two known maritime militia vessels along with the deputy commander from Tanmen were on-station is significant. It is likely that the militia units were conducting routine fishing activities before the arrival

¹⁵³ Tina G. Santos, "PH, Chinese Naval Vessels in Scarborough Shoal Standoff," *Inquirer*, April 11, 2012, <https://globalnation.inquirer.net/32341/ph-chinese-naval-vessels-in-scarborough-shoal-standoff>.

¹⁵⁴ Roel Landingin and Kathrin Hille, "Philippines and China in Naval Stand-Off," *Financial Times*, April 11, 2012, <https://www.ft.com/content/2bcc70f2-837f-11e1-ab78-00144feab49a>.

¹⁵⁵ Andrew S. Erickson and Conor M. Kennedy, "Model Maritime Militia: Tanmen's Leading Role In The April 2012 Scarborough Shoal Incident," CIMSEC, April 21, 2016, <http://cimsec.org/model-maritime-militia-tanmens-leading-role-april-2012-scarborough-shoal-incident/24573>.

of the BRP Pillar, but upon the Pillar's arrival militia members recognized the potential of the situation and radioed for headquarters. Erickson and Kennedy stress that the "Scarborough Shoal incident makes clear, even when Tanmen fishing vessels may be operating for private gain, they can be quickly transformed into instruments of state policy when the situation calls for it."¹⁵⁶ They add that Wang Shumao, the on-scene commander of twelve militia boats "led an effort outside of the shoal to block any Philippine fishing vessels from entering the area."¹⁵⁷ Thus the decision to contact Tanmen officials likely enabled Beijing to capitalize on what they asserted was an unnecessary escalation by Manila. However, Philippine authorities had responded similarly in past circumstances concerning the arrest and detainment of Chinese poachers.

On April 12, following a series of diplomatic exchanges, the Pillar departed Scarborough Shoal in a possible attempt to deescalate the situation; however, Philippine authorities reported that redeployment was for refitting and refueling the ship.¹⁵⁸ Regardless of Manila's efforts, Beijing responded by sending a third ship to the shoal. Lt General Alcantara, chief of the Northern Luzon Command, reported that the Pillar had been relieved by the coast guard ship, BRP Pampanga. While at the same time a third Chinese vessel had arrived at the shoal, one from the Fishing Law Enforcement Command (FLEC).¹⁵⁹ Green asserts that China's FLEC deployment may have resulted due to poor communication on the part of Manila for failing to signal the departure of the Pillar properly or could have been a pre-planned reaction.¹⁶⁰ However, Beijing and Manila continued diplomatic negotiations.

On April 13, Philippine Foreign Secretary Albert Del Rosario stated in a press conference: "We have been able to arrive on some agreements ... [and] both sides have

¹⁵⁶ Erickson and Kennedy, "Model Maritime Militia."

¹⁵⁷ Erickson and Kennedy, "Model Maritime Militia."

¹⁵⁸ Inquirer.net, "Scarborough Shoal Standoff: A Timeline," *Philippine Daily Inquirer*, May 9, 2012, <https://globalnation.inquirer.net/36003/scarborough-shoal-standoff-a-historical-timeline>.

¹⁵⁹ Rappler, "PH Pulls out Warship in China Standoff," *Rappler*, April 12, 2012, <https://www.rappler.com/nation/3753-ph-pulls-out-warship-in-china-standoff>.

¹⁶⁰ Green et al., *Countering Coercion in Maritime Asia*. pp 102.

agreed not to do anything that would escalate the situation there any further. “¹⁶¹ Later that day in what appeared as a step toward de-escalation, CMS 75 and FLEC 303 escorted the Chinese fishermen from the area. At such time, Beijing and Manila each had one ship remaining on station, the CMS 84 and BRP Pampanga, respectively.

On April 17, in what Beijing interpreted as an attempt to globalize the issue, Manila declared that it would seek international arbitration before the International Tribunal on the Law of the Sea (ITLOS). In a press conference, Del Rosario declared that “the whole world knows that China has myriad more ships and aircraft than the Philippines. At day’s end, however, we hope to demonstrate that international law would be the great equalizer.”¹⁶² Chinese Foreign Ministry spokesman Liu Weimin responded stating that “Huangyan Island is China’s inherent territory. There is no reason to bring it to the International Tribunal for the Law of the Sea.”¹⁶³ Furthermore, researcher Zhu Zhenming of Yunnan Academy of Social Sciences contends that the Philippines, on the one hand, stresses its willingness on a peaceful solution to the dispute, while on the other hand, tries to make the confrontation near the Huangyan Island a multilateral issue ... it is killing off possibilities of a peaceful solution ... [and] reflects the absence of its sincerity.”¹⁶⁴ The Philippines’ decision to seek legal recourse is the likely consequence of correctly identifying the overwhelming material asymmetry its forces faced.

As a response to Manila’s decision to pursue arbitration, FLEC deployed its largest and most capable vessel to relieve CMS 84 and defend ten Chinese fishing vessels operating near the shoal. On April 20, the China Daily reported:

The 2,580-tonne Yuzheng-310 set sail from the southern port city of Guangzhou on Wednesday. Its mission is to protect China’s territorial

¹⁶¹ Inquirer.net, “Philippines, China Work to Ease Shoal Standoff,” *Philippine Daily Inquirer*, April 13, 2012, <https://globalnation.inquirer.net/33017/philippines-china-recall-protest-to-ease-standoff>.

¹⁶² Andreo Calonzon, “PHL to Take Panatag Shoal Dispute with China to International Court,” *GMA News Online*, April 17, 2012, <https://www.gmanetwork.com/news/news/nation/255215/phl-to-take-panatag-shoal-dispute-with-china-to-international-court/story/>.

¹⁶³ U.S. Embassy Beijing Press Office, “U.S. Embassy Beijing Early Alert – A Summary of Select PRC Media Commentary” (Beijing: U.S. Embassy Beijing, April 19, 2012), https://www.opensource.gov/portal/server.pt/gateway/PTARGS_0_0_200_203_121123_43/content/Display/CPP20120419010003#index=1&searchKey=31396190&rpp=10.

¹⁶⁴ U.S. Embassy Beijing Press Office, “U.S. Embassy Beijing Early Alert.”

waters and ensure the safety of Chinese fishermen, said a statement released by the South China Sea Fishery Bureau under the Ministry of Agriculture. 'In the period of time that follows, the ship will go on regular patrols, help Chinese fishermen in the area and look into other issues concerning fishing activity there.'¹⁶⁵

ASEAN remained relatively quiet throughout the standoff. It appeared that Beijing was successful in its efforts to keep the South China Sea issue a bilateral subject, as opposed to a multilateral issue that would undermine China's position. At the annual ASEAN summit in May 2012, the SCS disputes ultimately proved too controversial for ASEAN states to unify and produce a diplomatic resolution that affirmed the Philippines' position. However, the United States weighed in. A statement from the Secretary of State, Hillary Clinton, said: "No nation can fail to be concerned by the increase in tensions, the uptick in confrontational rhetoric and disagreement over resource exploitation."¹⁶⁶ Regardless of U.S. support, ASEAN failed to unify to resist Beijing's claims in the SCS, which fundamentally shattered any potential that the Philippines would retain the shoal.

On April 28, as Manila continued efforts to internationalize the issue, Beijing moved to reinforce the nine Chinese vessels already operating in the vicinity of the shoal, which included CMS 71, CMS 75, and seven fishing vessels. FLEC 310 returned to the shoal in an attempt to intimidate the BRP Edsa and BRP Pampanga. Philippine officials reported that FLEC 310 maneuvered at a high rate of speed and then rapidly turned to generate a two-meter wave that impacted both Philippine vessels. Officials stated that no damage resulted and neither Philippine ship responded to the aggressive and unsafe maneuver; Beijing denied the accusation.¹⁶⁷ However, no further action was taken by either disputant following the exchange.

¹⁶⁵ Xinhua, "China Patrol Ship Reaches Waters off Huangyan Island," *China Daily*, April 20, 2012, http://www.chinadaily.com.cn/china/2012-04/20/content_15102130.htm.

¹⁶⁶ Jane Perlez, "Asian Leaders at Regional Meeting Fail to Resolve Disputes Over South China Sea," *New York Times*, July 12, 2012, <https://www.nytimes.com/2012/07/13/world/asia/asian-leaders-fail-to-resolve-disputes-on-south-china-sea-during-asean-summit.html>.

¹⁶⁷ Jerry E. Esplanada, "PH to 'Stand Ground' in Scarborough Shoal," *Philippine Daily Inquirer*, April 29, 2012, <https://globalnation.inquirer.net/35253/ph-to-'stand-ground'-in-scarborough-shoal>.

On May 2, Armed Forces of the Philippines' (AFP) Northern Luzon Command (NOLCOM) reported that 14 Chinese vessels, including seven fishing boats were operating near the shoal compared to five Philippine ships, including one Coast Guard vessel, one Bureau of Fisheries and Aquatic Resources vessel, and three fishing boats. NOLCOM described the situation as follows:

Edsa II was 1.4 nautical miles (2.52 kilometers) northeast off the shoal's South Rock. The CMS 71 was 13.6 nautical miles (24.4 km) away from Edsa II; the CMS 81, 11.9 nautical miles (21.42 km) away; and the CMS 75, only 3.3 nautical miles (5.94 km) away. China's FLEC 310 was just 8.3 nautical miles (14.94 km) away from Edsa II.¹⁶⁸

NOLCOM Chief, Lieutenant General Anthony Alcantara, affirmed the Philippines' commitment to maintaining sovereignty, stating that the military was determined to "protect territorial integrity."¹⁶⁹ Over the next week, Beijing began applying economic pressures in an attempt to bring the standoff to an end.

First, China targeted the Philippine banana industry, enacting a quarantine due to the alleged presence of mealybugs found in shipments dating back to March of 2012. ProMusa, a Biodiversity International funded group, reported that in "2012, the exports from the Philippines made up 98% of the Asian banana trade. Two-thirds of the exported volumes were shipped to Japan, China, and South Korea."¹⁷⁰ Manila attempted to downplay the economic effects of the banana quarantine imposed by its third largest export partner. Arsenio Balisacan, the Economic Planning Secretary, stated that "as of now, we are likely to see modest effects on the economy, but we need to intensify our efforts to diversify our trade with other countries, so whether or not this event with China occurred, we should have been diversifying our exports."¹⁷¹ China's ability to selectively target

¹⁶⁸ Dona Z. Pazzibugan, "14 Chinese Vessels Now at Panatag Shoal, Says AFP," *Philippine Daily Inquirer*, May 3, 2012, <https://globalnation.inquirer.net/35593/14-chinese-vessels-now-at-panatag-shoal-says-afp>.

¹⁶⁹ Pazzibugan, "14 Chinese Vessels."

¹⁷⁰ "Philippines," ProMusa, October 10, 2018, <http://www.promusa.org/Philippines>.

¹⁷¹ Phil Stewart, "Philippines Seeks New Markets amid Sea Dispute with China," *Reuters*, May 17, 2012, <https://www.reuters.com/article/uk-philippines-china/philippines-seeks-new-markets-amid-sea-dispute-with-china-idUSLNE84G02520120517>.

industry vital to hundreds of thousands of farmers in the Philippines undermined Manila officials' efforts and resolve to resist China's assertive actions.

Second, Beijing targeted the tourist industry, due to what they claimed was the result of protests in Manila that made travel unsafe for Chinese citizens. Again, Philippine officials downplayed the potential impact of the travel ban. Tourism Undersecretary Ma Victoria Jasmin stated that this "obstacle is temporary, and we can and must overcome."¹⁷² However, according to reporting, "China is the 4th largest market for tourists in the Philippines behind Korea, the United States, and Japan."¹⁷³ As a result of the economic coercion, He Kai found that the "Philippines lost approximately \$34 million from banana exports and the cost to tourism was almost \$1 million."¹⁷⁴ It is plausible that the Philippines could temporarily absorb one of the economic constraints; however, the combination of multiple coercive economic tactics made it less likely that Manila could endure the economic losses.

During this period, the Philippine Foreign Minister reported that China had continued to expand its presence at the shoal as of May 22. Del Rosario told reporters that the units included five PRC vessels, 16 fishing boats, and 76 utility boats (dinghies).¹⁷⁵ Chinese spokesman Hong Lei countered and responded, stating that is "the way they operate, [it] is in compliance with the relevant laws in China, as well as China's fishing moratorium order."¹⁷⁶ That moratorium is a reference to the annual fishing ban imposed by China in the South China Sea, which includes the shoal. As a response to China's ban, the Philippines issued a ban and formally declared that it does not recognize Beijing's moratorium. On May 16, Del Rosario announced:

¹⁷² Apa M. Agbayani, "Impact of China Travel Boycott 'Immediate but Temporary,'" *Rappler*, May 10, 2012, <https://www.rappler.com/nation/5166-dot-chinese-travel-boycott-unfortunate>.

¹⁷³ Agbayani, "Impact of China."

¹⁷⁴ He Kai, *China's Crisis Behavior: Political Survival and Foreign Policy after the Cold War* (Cambridge: Cambridge University Press, 2016), 119, <https://doi.org/10.1017/CBO9781316494059>.

¹⁷⁵ BBC News, "Philippines: China 'Increasing Ships at Disputed Shoal,'" *BBC News*, May 23, 2012, <https://www.bbc.com/news/world-asia-18171009>.

¹⁷⁶ BBC News, "Philippines."

We do not recognize China's fishing ban in as much as portions of the ban encompass our Exclusive Economic Zone (EEZ). However, the president has decided that in view of the accelerated depletion of our marine resources, it would be advisable for us to issue our own fishing ban for a period of time to replenish our fish stock.¹⁷⁷

China ignored the Philippines' fishing ban and continued to permit Chinese fishing in accordance with what it deemed was in keeping with its domestic law. Additionally, Chinese vessels prohibited Philippine fishermen from accessing the shoal, although, Philippine fishermen were already hesitant to return to the shoal given the sheer number of Chinese vessels present and a potential threat posed by those forces. Hong Lei stated that China's position was in response to the Philippines' "provocative actions" and that China was simply using "corresponding measures to strengthen management and control" of the shoal.¹⁷⁸ By this time in the standoff, the Philippines had effectively ceded control of the shoal to China.

China and the Philippines each began withdrawing vessels in mid-June due reportedly to the coming typhoon season. Philippine ships were first to depart the area; Del Rosario stated that "when the weather improves, a re-evaluation will be made."¹⁷⁹ Hong Lei responded that "we hope there will continue to be an easing in the situation, and hope bilateral cooperation will recover and be safeguarded."¹⁸⁰ However, a body of information indicates that the planned withdrawal was the consequence of U.S. intervention. Ely Ratner contends that "U.S. officials in mid-June brokered what they thought was a deal for a mutual withdrawal. Exhausted, outnumbered and lacking viable alternatives, Manila

¹⁷⁷ AFP, "Philippines and China to Impose Fishing Bans amid Standoff," *Telegraph*, May 14, 2012, <https://www.telegraph.co.uk/news/worldnews/asia/china/9264697/Philippines-and-China-to-impose-fishing-bans-amid-standoff.html>.

¹⁷⁸ Hong Lei, "Foreign Ministry Spokesperson Hong Lei's Remarks on on Huangyan Island Incident May 23," Embassy of the People's Republic of China in the Republic of the Philippines, May 23, 2012, <http://ph.china-embassy.org/eng/sgdt/t934429.htm>.

¹⁷⁹ Jane Perlez, "Philippines and China Ease Tensions in Rift at Sea," *New York Times*, June 18, 2012, <https://www.nytimes.com/2012/06/19/world/asia/beijing-and-manila-ease-tensions-in-south-china-sea.html>.

¹⁸⁰ Perlez, "Philippines and China."

withdrew its remaining ships under the face-saving auspices of an oncoming typhoon.”¹⁸¹ Ratner adds that “China, on the other hand, failed to comply with the agreed-upon deadline and retained its maritime vessels at the shoal.”¹⁸² Regardless, by July 2012, bilateral and multilateral diplomatic mechanisms failed to restore the status quo ante bellum.

China had effectively achieved control of the shoal, so in its self-interest, it made sense to bring the dispute to an end before it indeed became a multilateral conflict. During this time, President Aquino went on a world tour, mainly with the aim of developing support in the resistance of Chinese claims for a shoal that was within the Philippines’ EEZ. Diplomatic exchanges, which included the United States, the United Kingdom, and ASEAN partners, failed to produce a resolution that returned the shoal to the Philippines or to ensure the permanent departure of Chinese vessels from the shoal.

As of June 2018, China is still in control of Scarborough. Philippine fishermen continue to report a large number of Chinese vessels operating in the area, which grant only limited access to Philippine vessels. Philippine Presidential Spokesperson Harry Roque has attempted to downplay the issue given friendly relations under the current Duterte administration. Roque stated, “China should discipline its rotten coast guard personnel. This is not acceptable, [but] I would not say it was harassment. You know what harassment is? During the time of President Aquino.”¹⁸³ Given the Philippines’ political and military disadvantage, as well as a lack of regional support, the Chinese have expertly executed a *fait accompli* using maritime militias to exercise control and resource management.

4. Findings and Implications

First, the Scarborough Shoal standoff represents the validation of China’s echelon defense strategy, which is a model by which the Chinese can impose sovereignty over the

¹⁸¹ Ely Ratner, “Learning the Lessons of Scarborough Reef,” *National Interest*, November 21, 2013, <https://nationalinterest.org/commentary/learning-the-lessons-scarborough-reef-9442>.

¹⁸² Ratner, “Learning the Lessons.”

¹⁸³ Dharel Placido, “China Still Rules over Scarborough Shoal, Say Filipino Fishermen,” *ABS CBN News*, June 11, 2018, <https://news.abs-cbn.com/news/06/11/18/china-still-rules-over-scarborough-shoal-say-filipino-fishermen>.

South China Sea. Cheng Chunfa, the head of CMS operations in the South China Sea, stated that the standoff represented a “new model ... [in the] rights-protection struggle.”¹⁸⁴ The model is built in part on the employment of maritime militias, leveraging the asymmetric advantage resulting from the operationalization of its fishing fleet. The advantage is having units widely dispersed and in place throughout the South China Seas that can be rapidly activated into state actors. The ambiguity should give states pause for concern when deciding to interdict Chinese fishermen conducting routine economic activities. China’s decade-long modernization campaign has resulted in an entire maritime component that includes maritime militias, which has rapidly expanded its ability to communicate and disseminate information quickly. Martinson stresses that the “resource gap is exacerbated by the nature of the maritime arena, where a great advantage accrues to states that have the wherewithal to keep more forces at sea.”¹⁸⁵ Maritime militias interspersed throughout the SCS affords China with additional forces in the maritime arena, thereby reducing the resource gap. Thus, China’s material power advantage has created an environment in which leaders now can more rapidly observe, orient, decide, and act, compared to materially deficient regional states.

Second, evidenced by Beijing’s handling of the standoff, maritime militias are a force with which Beijing can judge the relative resolve and commitment of regional states and possible international support. China’s case for intervention on behalf of the Chinese fishermen was based in part on the fact that the fishermen’s rights were violated and the Philippines overreacted by sending its largest warship rather than a coast guard vessel, which it had done in previous encounters. The arrival of the BRP Pillar likely provided Beijing with the necessary impetus to respond with force that could conclusively establish control of the shoal. Although military and law enforcement vessels were involved, Beijing could push a narrative that it was only responding to Philippine aggression that was both unnecessary and unwarranted.

¹⁸⁴ Ryan D. Martinson, *Echelon Defense: The Role of Sea Power in Chinese Maritime Dispute Strategy*, China Maritime Study, No. 15 (Newport, Rhode Island: Naval War College Press, 2018), 2.

¹⁸⁵ Martinson, *Echelon Defense*.

Furthermore, by Beijing focusing on the legal issue of fishing rights and using its extensive fishing fleet as an instrument of state power, China can seemingly overwhelm regional states' capacities to resist China's incremental gains. The maritime militias enable China to remove or reduce the military component of a situation that might otherwise rise to kinetic conflict, which might result in the formation of a multilateral coalition to confront China. Ian Bowers contends that "low-level or tactical interactions at sea generally do not have an impact on the broader strategic picture."¹⁸⁶ The case is reflective of Bowers' assertion, indicating that regional states and international partners were not overwhelmingly compelled to support Philippine claims, regardless of the potential consequence of ceding territory and the precedent it would set. As a result, Erickson asserts that "Beijing is certain to continue to wield its third sea force as a tool of choice to probe and apply pressure."¹⁸⁷ Therefore, one can conclude that China learned a valuable lesson in 2012: by limiting the military component of a crisis during a peacetime dispute over an issue that arguably violates international law, Beijing can expect relatively little resistance and almost no consequence.

C. CASE 3: CHINA-VIETNAM HAIYANG SHIYOU 981 OIL RIG STANDOFF – 2014

1. Overview

In May 2014, China National Offshore Oil Corporation (CNOOC) deployed Haiyang Shiyou 981 (HYSY-981) exploratory oil rig to waters off of Vietnam, in an area that has been contested by both states for centuries. The rig arrived in an area approximately 70 miles inside of Vietnam's EEZ and approximately 20 miles south of the Chinese-held Triton Island in the Paracel Islands archipelago. HYSY-981 was escorted by a Chinese flotilla, sent from the Guangzhou Military Region and Hainan Military District commands. Vietnam responded by sending out a contingent of vessels to defend its territorial integrity.

¹⁸⁶ Ian Bowers, "Escalation at Sea: Stability and Instability in Maritime East Asia," *Naval War College Review* 71, no. 4 (2018): 6.

¹⁸⁷ Andrew S. Erickson, "Exposed: Pentagon Report Spotlights China's Maritime Militia," *National Interest*, August 20, 2018, <https://nationalinterest.org/feature/exposed-pentagon-report-spotlights-china's-maritime-militia-29282>.

Over the next two months, Chinese and Vietnamese vessels would have numerous encounters at sea, including the ramming and sinking of Vietnamese vessels. In addition to the violence at sea, Vietnamese citizens mobilized in Hanoi to protest Chinese aggression and went as far as setting fire to Chinese factories. On July 15, Beijing withdrew the rig one month earlier than had been announced, bringing the standoff to a close.

2. Contextual Analysis: Claimant Dispute – Beijing vs. Hanoi

The Paracel Island chain, also known as Xisha Islands by China and the Hoang Sa Archipelago by Vietnam, is a group of approximately 130 coral islands and reefs in the northwest area of the South China Sea. The archipelago is divided into two main groups, the northeastern Amphitrite Group, and the western Crescent Group. The island chain spans an area of approximately 15,000 square miles and is equidistant for China and Vietnam. China, Taiwan, and Vietnam currently claim it; however, at present, the chain is firmly in Chinese control.

In recent years the conflict over the island chain has been attributed to the potential extraction of oil and natural gas. However, U.S. Energy Information Administration analysis finds that

Most fields containing discovered oil and natural gas are clustered in uncontested parts of the South China Sea, close to shorelines of the coastal countries, and not near the contested islands. Industry sources suggest almost no oil and less than 100 billion cubic feet of natural gas in proved and probable reserves exist in fields near the Spratly Islands. The Paracel Island territory has even less natural gas and no oil.¹⁸⁸

Given the limited potential for resource extraction, the island group is more representative of the struggle of regional states to resist China's expansion and control of the South China Sea. China and Vietnam each claim a historical right to the area dating back hundreds of years, and, in the case of the Chinese, to the Han Dynasty. More recently though, the issue of control can be traced back to 1945 and the end of World War II.

¹⁸⁸ U.S. Energy Information Administration, "Contested Areas of South China Sea Likely Have Few Conventional Oil and Gas Resources," *Today in Energy*, April 3, 2013, <https://www.eia.gov/todayinenergy/detail.php?id=10651>.

Following the withdraw of Japanese forces from the archipelago, the two major island groups were divided. French-Vietnamese forces were left in control of the Crescent Group and the Republic of China was given control of the Amphitrite Group. In 1951, Chinese Premier Zhou Enlai declared that the PRC had sovereignty over the Paracels and Spratly Islands groups. In 1958, Beijing reaffirmed that claim of sovereignty. Fravel stresses that “the 1958 declaration marked the first time that China linked its claims to territorial sovereignty with the assertion of maritime rights, in this case, rights to territorial waters.”¹⁸⁹ China has since built a domestic legal framework with which to further its claims and has adopted UNCLOS in an attempt to legitimize its claims. In 1974, China entirely wrested control of the Paracel Islands following the most significant naval battle in PRC history to date, defeating South Vietnamese forces. Although relatively minor clashes have occurred since 1974, China has remained in control of the archipelago.

Vietnam has never abandoned its claims, but since the mid-90s has attempted to work both bilaterally with China and multilaterally with the regional and international community to develop a framework for cooperation and cohabitation. In 2002, China, Vietnam, and other ASEAN states affirmed a non-binding resolution—the Declaration on the Conduct of Parties in the South China Sea—in an attempt to further cooperation and promote stability. Since 2002, Sino-Vietnamese relations continued to improve and expand; according to the China Daily, “by the end of 2002, China had invested more than 230 projects in Vietnam, with its contractual value exceeding US\$ 0.37 billion. Its investment mainly covered machinery and electrical product-assembling, food-processing and real estate.”¹⁹⁰ Furthermore, according to Green, “Beijing and Hanoi ... agreed to ... regular joint patrols, a joint fisheries survey, [and] joint hydrocarbon exploration.”¹⁹¹ Regardless of bilateral cooperation, conflict at sea concerning the Paracels has remained a point of contention.

¹⁸⁹ M. Taylor Fravel, “China’s Strategy in the South China Sea,” *Contemporary Southeast Asia* 33, no. 3 (2011): 292, <https://doi.org/10.1355/cs33-3b>.

¹⁹⁰ China Daily, “China Vietnam Bilateral Relations,” *China Daily*, November 14, 2006, http://www.chinadaily.com.cn/china/2006-11/14/content_732549.htm.

¹⁹¹ Green et al., *Countering Coercion in Maritime Asia*, 204.

For example, in 2007, Hanoi deployed a contingent of auxiliary vessels with the purpose of expelling a Chinese National Petroleum Corporation (CNPC) survey vessel from the contested waters in the Western Paracel Island group. The Chinese responded, directing two CMS vessels to the area to confront the fleet of Vietnamese auxiliary vessels. During the standoff, the CMS vessels maneuvered aggressively in order to maintain a cordon area, first shouldering the Vietnamese vessels and then escalated to ramming.¹⁹² The incident in 2007 is illustrative of the continued conflict that exists between the two claimants and China's continued efforts to exercise control over the South China Sea.

3. Event Timeline

The Vietnamese Ministry of Foreign Affairs announced that on May 1, 2014, Vietnamese authorities discovered HYSY-981, along with three support vessels, operating in Vietnam's EEZ, approximately 20 nautical miles south of Triton Island (long-held by China, but approximately 120 nautical miles from the coast of Vietnam).¹⁹³ Vietnamese officials protested the arrival of the oil rig in waters that were apparently in Vietnam's EEZ. Vietnamese foreign ministry spokesman Le Hai Binh demanded "that China drop its drilling plans and move it out of the area."¹⁹⁴ Meanwhile, Vietnam deployed many Vietnamese Coast Guard and Fisheries Resources Surveillance vessels to defend Vietnamese territorial integrity. Reporting indicated that Vietnam deployed as many as 29 naval and coast guard ships by May 6; interpreted by one Chinese diplomat, it was a "show of force" that sought to compel China's withdrawal from the area.¹⁹⁵ The two naval flotillas met at sea and almost immediately began harassing one another.

¹⁹² Scott Bentley, "Vietnam and China: A Dangerous Incident," *The Diplomat*, February 12, 2014, <https://thediplomat.com/2014/02/vietnam-and-china-a-dangerous-incident/>.

¹⁹³ Vietnam Ministry of Foreign Affairs, "Vietnam's International Press Conference on 7th May 2014," Socialist Republic of Vietnam in the Federal Republic of Germany, May 7, 2014, <http://www.vietnambotschaft.org/viet-nams-international-press-conference-on-7th-may-2014/>.

¹⁹⁴ Tim Daiss, "Vietnam Tells China To Pull Its Oil Rig As New Prime Minister Takes Office," *Forbes*, April 7, 2016, <https://www.forbes.com/sites/timdaiss/2016/04/07/turning-up-the-heat-vietnam-tells-china-to-pull-oil-rig/#1229e7a4481b>.

¹⁹⁵ Chris Brummit, "Vietnam Tries to Stop China Oil Rig Deployment," *USA Today*, May 7, 2014, <https://www.usatoday.com/story/news/world/2014/05/07/vietnam-china-oil-rig/8797007/>.

The Foreign Ministry in Hanoi reported that “on May 4, Chinese ships intentionally rammed two Vietnamese Sea Guard vessels,”¹⁹⁶ resulting in damage to equipment and injuries to personnel. Tran Duy Hai, a Foreign Ministry official and deputy head of Vietnam’s national border committee, told reporters that “Chinese ships, with air support, sought to intimidate Vietnamese vessels. Water cannon was used.”¹⁹⁷ While each side pursued diplomatic recourses in an attempt to manage escalation, encounters at sea proved violent, and Vietnam’s resistance indicated an increased willingness to accept the risk. However, neither side was overwhelmingly willing to walk back their assertions of territorial sovereignty. On May 6, Deputy Prime Minister Pham Binh Minh had a teleconference with Chinese State Councilor Yang Jiechi, stressing that “China’s unilateral bringing of the rig and a large number of vessels, including military ships ... is illegal and runs counter to international law and practice ... [and] negatively impacts political trust and cooperation.”¹⁹⁸ From Beijing’s perspective Hanoi has attempted the similar unilateral exploration in the South China Sea; however, China has state power an order of magnitude greater with which to dissuade Vietnamese exploratory operations.

During this period, the U.S. State Department expressed its concern over the situation. U.S. State Department spokeswoman Jen Psaki stated: “We call on all parties to conduct themselves safely and appropriately, exercise restraint, and address competing sovereignty claims peacefully, diplomatically, and in accordance with international law.”¹⁹⁹ China’s Foreign Ministry spokeswoman Hua Chunying responded to the United States, asserting “the United States has no right to complain about China’s activities within the scope of its sovereignty.”²⁰⁰ Regardless of China’s dismissal of U.S. concern, Vietnam received significantly more regional and international diplomatic support than the

¹⁹⁶ Reuters, “Tensions Rise as Vietnam Says China Rammed Ships,” CNBC, May 7, 2014, <https://www.cnbc.com/2014/05/07/tensions-rise-as-vietnam-says-china-rammed-ships.html>.

¹⁹⁷ Reuters, “Tensions Rise.”

¹⁹⁸ Embassy of the Socialist Republic of Vietnam, “Vietnam Demands China Withdraw From Territorial Waters,” Embassy of the Socialist Republic of Vietnam in the United States of America, May 7, 2014. <http://vietnamembassy-usa.org/news/2014/05/vietnam-demands-china-withdraw-territorial-waters>.

¹⁹⁹ Reuters, “Tensions Rise.”

²⁰⁰ Reuters.

Philippines had received in 2012. An international consortium of states, including members of ASEAN, the European Union, the United Kingdom, Japan, and India, all expressed concern with China's unilateral approach in the South China Sea.

On May 10, Vietnamese citizens started to organize and began to protest Chinese actions in the South China Sea. By May 14, nearly 20,000 protestors took to the streets of Ho Chi Minh City in what mostly started as peaceful protests.²⁰¹ However, smaller groups of citizens took more direct action, looting and destroying Chinese-owned businesses in the industrial parks of the city. On May 15, protestors attacked a Taiwanese steel mill, setting fire to buildings, killing 16 reportedly Chinese nationals, 5 Vietnamese, and injuring nearly 100 people.²⁰² The government responded in an attempt to quell the riots, detaining more than 600 people. However, Chinese nationals fearing additional reprisals began fleeing Vietnam en masse.

While at sea, China continued to reinforce the oil rig defense, sending additional vessels and aircraft to support the expanded cordon area, which had been increased from 5–7 nautical miles to 10–15 nautical miles. On May 11, the Vietnamese Coast Guard reported that Chinese military aircraft had started harassing Vietnamese vessels, flying approximately 800 to 1,000 meters over the top of them.²⁰³ On May 13, sea police forces of the Vietnamese Ministry of National Defense said China had dispatched as many as 86 ships to escort the HYSY-981. According to ministry reporting, that included the frigate *Jinhua* (534), submarine *Wanning* (786), 32 law enforcement vessels, four surveillance vessels, two political ships, seven medical vessels, 19 transport ships, one oil tanker, and

²⁰¹ Adam Taylor, "The \$1 Billion Chinese Oil Rig That Has Vietnam in Flames," *Washington Post*, May 14, 2014, https://www.washingtonpost.com/news/worldviews/wp/2014/05/14/the-1-billion-chinese-oil-rig-that-has-vietnam-in-flames/?noredirect=on&utm_term=.185bf0ca009c.

²⁰² Kate Hodal and Jonathan Kaiman, "At Least 21 Dead in Vietnam Anti-China Protests over Oil Rig," *Guardian*, May 15, 2014, <https://www.theguardian.com/world/2014/may/15/vietnam-anti-china-protests-oil-rig-dead-injured>.

²⁰³ Toui Tre News, "China Sends Fighter Jets to Guard Illegal Oil Rig in Vietnam's Waters," Toui Tre News, May 11, 2014, <https://tuoitrenews.vn/politics/19582/china-sends-fighter-jets-to-guard-illegal-oil-rig-in-vietnams-waters>.

15 fishing vessels.²⁰⁴ Vietnamese Prime Minister Nguyen Tan Dung asserted that “this extremely dangerous action has been directly endangering peace, stability, security, and marine safety in the East Vietnam Sea.”²⁰⁵ Throughout this period, Vietnam reported numerous attempts by Chinese vessels to ram Vietnamese ships; additionally, they reported damage caused by high-powered water cannons, as the United States had reported in the Impeccable case.

The maritime militias deployed to support the oil rig defense were dispatched from Hainan Island. According to Erickson and Kennedy, Tanmen Maritime Militia Company Deputy Commander Wang Shumao “led ten of the company’s militia vessels and 200 militiamen to the platform’s location south of Triton Island to block Vietnamese attempts to disrupt the platform’s operations.”²⁰⁶ Erickson and Kennedy assert that during the entirety of the dispute, “Sanya’s Maritime Militia contributed 29 fishing vessels to the oil rig’s defense. This number, combined with the ten sent by the Tanmen militia, correlates closely with Vietnamese estimates of the number of Chinese fishing vessels present.”²⁰⁷ Erickson and Kennedy stress that “the sheer scale of the ‘rights protection’ ... was surely unprecedented for new units and the more experienced Tanmen Maritime Militia alike.”²⁰⁸ The incorporation of the militia units into an armada of this size indicates China’s commitment to maintaining a force that significantly frustrates adversaries’ reactions.

From May 14–25, various diplomatic exchanges occurred; however, discussions brought about no significant mechanism for deescalating the situation. On May 26, maritime activities escalated when a Chinese fishing vessel rammed and sank a Vietnamese fishing boat. A reported 40 Chinese vessels had surrounded a much smaller group of Vietnamese boats, an obvious intimidation tactic. Video evidence shows a much larger

²⁰⁴ Yuetong News Agency, “China’s 86 Ships Guarding the Offshore Oil 981 Drilling Platform Operating in the South China Sea,” Yuetong News Agency, May 14, 2015, https://www.guancha.cn/local/2014_05_14_229365.shtml.

²⁰⁵ Toui Tre News, “China Sends Fighter Jets.”

²⁰⁶ Andrew S. Erickson and Conor M. Kennedy, “From Frontier to Frontline: Tanmen Maritime Militia’s Leading Role Pt. 2,” Center for International Maritime Security, May 17, 2016, <http://cimsec.org/frontier-frontline-tanmen-maritime-militias-leading-role-pt-2/25260>.

²⁰⁷ Erickson and Kennedy, “From Frontier to Frontline.”

²⁰⁸ Erickson and Kennedy, “From Frontier to Frontline.”

Chinese fishing vessel (11209) pursuing a Vietnamese fishing boat, subsequently ramming it and causing it to capsize and sink.²⁰⁹ Vietnamese news reported that “the latest images recorded by Vietnamese fishermen ... serve as irrefutable evidence of the inhumane actions of China against Vietnamese fishermen.”²¹⁰ The images captured show a much larger steel-hulled Chinese fishing vessel ramming the significantly smaller Vietnamese fishing boat. Chinese Foreign Ministry spokesman Hong Lei said, “In these seas, China’s ships were in a defensive mode ... who was it who took the initiative for the clash? Who was it who created tension on the scene? This is very clear.”²¹¹ The next day, China relocated the rig to the northeast and began phase two of drilling, which was reported to last until August.

On June 6, the Vietnamese Ministry of National Defense newspaper, *People’s Army*, reported that China had between 110 and 115 vessels on station, which included “35-40 coast guard vessels, 30 transport ships and tugboats, 35–40 ‘fishing vessels,’ and four naval ships,”²¹² working to enforce the cordon around HYSY-981. The PRC Embassy in Hanoi stated that as of June 7, “there were as many as 63 Vietnamese vessels in the area at the peak, attempting to break through China’s cordon and ramming the Chinese government ships for a total of 1,416 times.”²¹³ The embassy insisted that these actions were “serious infringements upon China’s sovereignty, sovereign rights and jurisdiction, [and] grave threats to the safety.”²¹⁴ With each side at an impasse, China sent state councilor Yang Jiechi to hold meetings with Vietnam’s Deputy Prime Minister and Foreign Minister Pham Binh Minh on June 8. To date, these were the most senior-level meetings

²⁰⁹ Guancha, “The Latest News from the South China Sea Situation: Vietnam Said That Chinese Fishing Boats Smashed Vietnamese Fishing Boats near the Ocean 981,” Guancha, May 27, 2014, https://www.guancha.cn/Neighbors/2015_03_25_313539.shtml.

²¹⁰ Reuters, “Chinese Ship Sinks Tiny Vietnam Fishing Boat after Collision in Disputed Waters,” *Telegraph*, June 5, 2014, <https://www.telegraph.co.uk/news/worldnews/asia/vietnam/10877637/Chinese-ship-sinks-tiny-Vietnam-fishing-boat-after-collision-in-disputed-waters.html>.

²¹¹ Reuters, “Chinese Ship Sinks.”

²¹² Erickson and Kennedy, “Frontier to Frontline.”

²¹³ Embassy of the People’s Republic of China in the Socialist Republic of Vietnam, “‘981’ Drilling Platform Operation: Vietnam’s Provocation and China’s Position (Chinese, English Version),” Embassy of the People’s Republic of China in the Social Republic of Vietnam, June 9, 2014, <http://vn.china-embassy.org/chn/zgyw/t1163582.htm>.

²¹⁴ Embassy of the People’s Republic of China in the Social Republic of Vietnam, “‘981’ Drilling.”

between the two states since the standoff began. However, the dialogue produced no meaningful resolution.

On July 15, one month ahead of its declared timeline, HYSY-981 was redeployed away from the disputed waters. Chinese officials reported the redeployment was in part due to the on-setting typhoon season, as well as confirmation that oil and gas were in another area. China declared that the removal was not the result of diplomatic pressure, and it remained firm in its commitment to exploring the waters. China's Foreign Ministry spokesman Hong Lei stated that China had not accepted U.S. intervention following U.S.-China Strategic and Economic Dialogue, which had occurred the week before. Hong told reporters that "We hope that countries outside the region strictly maintain neutrality, clearly distinguish right from wrong, and substantially respect the concerted efforts of the countries in the region to safeguard regional peace and stability."²¹⁵ The standoff ended without escalating into a broader military action and, like the Philippine standoff in 2012, ended without any enduring consequence for China nor harm for Vietnam.

4. Findings and Implications

First, the 2014 Oil Rig standoff marks the largest deployment of maritime militias to date. Given China's rapid ability to respond with overwhelming forces, one can infer that Beijing was ready for the potential outcome and had prepared its navy, coast guard, and militia forces for the likely scenario at sea. It is clear that a line can be drawn from 2009 to 2014 that indicates a significant improvement in tactics, techniques, and procedures, which has substantially improved the offensive capability of maritime militias. Furthermore, maintaining maritime domain awareness over a space of approximately 200 square nautical miles and more than a hundred vessels operating nearby requires tremendous coordination and communication capability. Therefore, China's investment in maritime mobilization starting in the early 2000s has generated a windfall return in its ability to subversively project power in the maritime domain.

²¹⁵ Simon Denyer, "China Withdraws Oil Rig from Waters Disputed with Vietnam, but Warns It Could Return," *Washington Post*, July 16, 2014, https://www.washingtonpost.com/world/china-withdraws-oil-rig-from-waters-disputed-with-vietnam-but-warns-it-could-return/2014/07/16/51f584a0-6128-4cd4-bad0-cb547907be30_story.html?noredirect=on&utm_term=.199645bf52da.

Second, these modernization factors—training, naval force integration, and communication—have combined to make China’s maritime militias a potent force multiplier for any adversary to engage, manage, or compete with on the open seas. At the very least, the sheer number of militia units present during the incident made direct engagement with CMS and MLE vessels significantly more difficult, contributing to China’s ability to manage the situation, arguably reducing the risk of the dispute breaching the threshold of war. Beijing’s decision to place maritime militias on the outer-most layer of defense was a calculated maneuver that significantly contributed to China’s ability to manage escalation. The maritime militias effectively defended CMS and MLE vessels, thus reducing the risk of CMS and MLE vessels engaging with the considerably smaller Vietnamese vessels that might have otherwise escalated the conflict. The underlying goal of Beijing is to ensure that these disputes remain bilateral competitions as opposed to regional multilateral conflicts. Beijing learned from 2009 and 2012 that maritime militias could be an instrumental component with which to manage escalation while, at the same time, advancing their control of the South China Sea.

Third, the case brings to bear a critical conclusion regarding states competing with belligerent revisionist powers in the maritime domain: when states are compelled to act in defense of their territorial claims against any adversary—asymmetric or state-sanctioned—they must do so with a significantly higher risk-acceptance threshold. States must be prepared to escalate the conflict, forcing or, at the very least, inducing the belligerent to analyze the value of the object and decide whether kinetic action is necessary to attain it. The Vietnamese were overwhelmingly outgunned, outmaneuvered, and outmanned; however, the government and citizens remained steadfast in their commitment to defend their sovereignty. An argument can be made that the actions of Vietnam’s leaders and its dedicated maritime force prompted Beijing leadership to redeploy the oil rig one month ahead of the announced timeline.

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V. COUNTERING MARITIME MILITIAS IN THE GRAY ZONE

A. CONCLUSION

The thesis research finds that China's gray zone strategies, which include the operationalization of its fishing fleet into a paramilitary militia at sea, have made little impact on international relations. Its gray zone tactics and units have not generated an outcome to date that gives China complete or total control of the South China Sea but instead have advanced PRC claims with limited reprisals either regional or internationally. Regardless of whether the region or globe affirms China's claims, the PRC has long had *de facto* control of features and portions of the South China Sea. The findings of this thesis support a conclusion that China is attempting to master the gray zone as it advances its claims of maritime sovereignty. The inclusion of maritime militias is an important element that increases PRC maritime domain awareness and reinforces the PLAN and Coast Guard. Maritime militias have proven to be a useful instrument with which to frustrate adversaries' traditional response mechanisms. Gregory Poling stresses, "the numbers of militia vessels operating in the area on behalf of China is much larger and more persistent than is generally understood."²¹⁶ Although China has been transparent in its proclamations concerning the importance of the maritime domain and its ambitions to control the South China Sea, its actions have proceeded at a pace against which the region and the international community has largely failed to coalesce and counter.

Maritime militias are definitively one component of Beijing's incremental strategy to exert control over a geostrategic location that is a vital economic component both regionally and globally. Militias have proven to Beijing that their use is not likely to result in a conflict beyond PRC control, giving China a force with which to conduct low-level probes that test adversary resolve. The maritime militias are not units that will enable China to assume control of the South China Sea in a single dispute or conflict. However, that is the strength of China's maritime strategy. China does not need to win every battle to win

²¹⁶ Gregory B. Poling, "Illuminating the South China Sea's Dark Fishing Fleets," Center for Strategic International Studies, January 9, 2019, <https://ocean.csis.org/spotlights/illuminating-the-south-china-seas-dark-fishing-fleets/>.

the war at sea. Instead, Beijing needs to continue to gradually assert dominion over the South China Sea, leveraging its significantly greater material power to exhaust the capacity of regional states to respond. Brahma Chellaney contends that this incremental “approach severely limits rival states’ options by confounding their deterrence plans and making it difficult for them to devise proportionate or effective counter-measures.”²¹⁷ An incremental-revisionist state, like China, calculates that its adversaries are either unwilling or unable to respond to what in totality could equate to a seismic shift in regional power structures.

PRC naval forces have modernized and expanded at an exponential rate in the last 20 years. China has leveraged all three of its navies—PLAN, Coast Guard, and maritime militias—to expand and enhance its maritime presence. The sheer size of China’s naval forces gives the state an overwhelming asymmetric advantage. When compared with regional states like Vietnam and the Philippines, the gap in quantity and quality of equipment and personnel is extreme. The material imbalance is one aspect of China’s asymmetric advantage that is predicated on the entirety of China’s naval forces. However, the maritime militias draw on the additional advantage of being only one of two maritime militias in the world. Except for Vietnam, no other nation has a maritime proxy force that can, in an instant, shift from routine economic activities to instruments of national power and gray zone coercion, forming the first line of defense in maritime disputes. Therefore, when regional actors encounter Chinese fishing trawlers, they must assume that they are dealing with maritime militias.

The inability of states to rapidly identify maritime militia units contributes to a lack of information precision. The resulting ambiguity complicates commanders’ decision-making, who lack the necessary capabilities and procedures to respond to civilians acting as militia units. The normative violation of the principle of distinction between combatants and civilians is a critical aspect of the ambiguity imposed by the employment of proxy forces. Maritime militias thus act as a non-military unit of escalation, the actions of which

²¹⁷ Brahma Chellaney, “Creeping China,” Project Syndicate, November 28, 2013, <https://www.project-syndicate.org/commentary/brama-chellaney-picks-apart-china-s--cabbage--strategy-for-securing-hegemony-in-east-asia>.

are not likely to result in a breach of the threshold of war. However, because the maritime militias are backed by the PLA Navy and Coast Guard, they are more likely to precipitate an action that could effectuate an enduring change in the status quo in favor of Beijing; the Scarborough Shoal in 2012 is one example. Maritime militia activities are, therefore, inherently subversive and destabilizing. As Thomas Schelling explains, subversive activities are themselves “ambiguous because the activity is complex, ill-defined, and hard to observe or attribute.”²¹⁸ For all of the impact of China’s maritime militias on international relations and their ability to frustrate adversary decision making, the maritime militias have drawn no consequences that would disrupt China’s control of the region.

B. POLICY RECOMMENDATIONS

1. Accept Risk in Great Power Competition

In order to deter China’s gray zone coercion and its maritime militias, the United States must adopt a more assertive posture in the South China Sea, accepting a greater risk of escalation that could result in military conflict. China’s gray zone coercion and use of proxy forces undermine U.S. security commitments and could limit the United States’ access to vital economic regions of the world. Maintaining access in the Pacific maritime commons and bolstering security commitments are both critical to U.S. national security, requiring a more persistent and aggressive U.S. Naval force backed by political leadership that is willing to impose restraints on Chinese maritime claims. It is important to consider that if the United States wants to succeed in the returning era of Great Power competition, then it must have and demonstrate that there exists a credible deterrent to China’s gray zone strategy. The United States must make the South China Seas an issue of national security equal to the importance placed on it by China. As Ngo Di Lan asserts, “the United States can respond effectively to gray zone tactics when core American interests are at stake. Thus, the key issue in the SCS is a lack of U.S. willingness to confront China.”²¹⁹ Therefore, after two decades of irregular warfare, U.S. security practitioners should not

²¹⁸ Thomas C. Schelling, *Arms and Influence* (New Haven, CT: Yale University Press, 2008), 77.

²¹⁹ Ngo Di Lan, “What the Berlin Airlift Can Teach Us About the South China Sea,” *The Diplomat*, February 2, 2019, <https://thediplomat.com/2019/02/what-the-berlin-airlift-can-teach-us-about-the-south-china-sea/>.

abandon their dualistic concepts of war and peace. Rather, they should embrace that conflict is indeed a range of state activities that must be met with credible deterrence along the entirety of the spectrum.

U.S. actions in the South China Sea to date have not presented any overwhelming risk to Beijing's long-term fait accompli tactics or to its naval forces operating in the area. The 2014 HYSY-981 oil rig dispute is evidence, albeit limited, that when China is confronted by an adversary willing to accept greater risk, it will withdraw forces counter to its stated goals. Thus, one could conclude that China's low-level probes necessitate reciprocal actions by countering forces that are both greater in proportion and risk tolerance. However, this requires that the countering state views the Chinese aggression as a hostile action that directly undermines the nations' sovereignty and national security. Other than Freedom of Navigation operations and rescinding China's invitation to RIMPAC in 2018, U.S. policymakers have been unwilling to counter Chinese contestation in the South China Sea and the use of proxy forces. The failure to frame the contest as a national security threat is an affirmation that the U.S. is unwilling to assume a higher risk in the hypercompetitive maritime environment.

2. Create a Coalition at Sea – Combined Task Force (CTF) Pacific

One of the first steps that the United States could take to assert itself in the South China Sea and to combat maritime militias would be to establish a Combined Task Force (CTF) naval component in the Pacific—CTF 170—similar to CTF 150. CTF 150 is a multinational task force conducting operations in the United States Central Command (USCENTCOM) Area of Responsibility (AOR) to counter “terrorist organizations and their related illegal activities by restricting their freedom of maneuver in the maritime domain.”²²⁰ More broadly, the task force is conducting maritime security operations (MSO) “under international maritime law and international maritime conventions to help ensure security and safety in international waters. This ensures that all commercial shipping

²²⁰ Combined Maritime Forces, “CTF 150: Maritime Security,” Combined Maritime Forces, 2019, <https://combinedmaritimeforces.com/ctf-150-maritime-security/>.

can operate freely while transiting the region.”²²¹ The multinational effort has included sixteen different countries, and leaders of the CTF rotate every four months among the participating nations. Creating CTF 170 could be the first step in drawing in partner-nations, which could generate the necessary inertia to create a binding code of conduct for the South China Sea.

The United States Navy to date has found success and willing partners through various bilateral and multilateral training exercises and operations like Cooperation Afloat Readiness and Training (CARAT), Southeast Asia Cooperation Training (SEACAT) and RIMPAC. The U.S. Navy reported that 2018 marked the 24th year of CARAT exercises, which have brought together a “dozen ally and partner nations including Bangladesh, Brunei, Indonesia, Malaysia, the Philippines, Singapore, Sri Lanka, Thailand, Timor-Leste and Vietnam.”²²² The U.S. Navy stresses that the “Maritime exercises conducted ... are designed to address the full spectrum of maritime operations with CARAT focusing on maritime security operations and SEACAT on information sharing and maritime domain awareness.”²²³ Additionally, in 2016, the United States worked to establish the Southeast Asia Maritime Security Initiative (MSI), which addressed key aspects of maritime domain awareness, established a common operating picture, and increased capacity building with under-resourced states like the Philippines and Vietnam.²²⁴ As valuable as these exercises and initiatives have proven to be in building partner-nation capacity, the establishment of a “CTF 170” would be an enduring year-long operation. Regardless of the importance of capacity building, presence at sea in the contested areas of the South China Sea is a paramount factor in the deterrence of Chinese maritime coercion.

²²¹ Combined Maritime Forces.

²²² CTF 73 DESRON 7 Public Affairs, “CARAT Exercise Kicks off with US, Brunei Navies,” America’s Navy: Forged By The Sea, November 13, 2018, https://www.navy.mil/submit/display.asp?story_id=107748.

²²³ CTF 73 DESRON 7 Public Affairs.

²²⁴ Prashanth Parameswaran, “America’s New Maritime Security Initiative for Southeast Asia,” The Diplomat, April 2, 2016, <https://thediplomat.com/2016/04/americas-new-maritime-security-initiative-for-southeast-asia/>.

Given the geostrategic and economic value of the South China Sea, one could expect that participation in this newly created multinational force would likely necessitate global participation. A security organization of this potential magnitude would undoubtedly invite the interest of Beijing, which should be incorporated as well. The creation of a CTF in the Pacific should not be presented as a containment strategy but, rather, as a way to advance the principles embedded in UNCLOS. By bringing China into the fold of the maritime forces, it would be bound to additional rules and norms that would enhance cooperation while simultaneously undermining the use of maritime militias. If China chooses not to participate, then it would suffer reduced influence and reputation. The creation of CTF 170 could reduce the gray zone space that China can manipulate, diminishing its capacity to challenge and coerce its neighbors unilaterally.

3. Strengthen Institutions – Safeguard Against Chinese Assertiveness

The United States should ratify UNCLOS, becoming the standard bearer of the laws and principles embedded in the convention. Moore and Schachte stress that the “most compelling reasons that support U.S. adherence to the Convention are rooted in restoring U.S. oceans leadership, protecting national interests and enhancing U.S. foreign policy.”²²⁵ By ratifying UNCLOS, the United States would signal to the rest of the world that it remains a global leader and supporter of international rules-based conventions. Although the United States has adhered to its own interpretation of UNCLOS as a principle of custom, it is time that political leaders advance U.S. interest by adopting the internationally recognized Law of the Sea. Ben Cardin asserts: “our failure to ratify the treaty ... undermines our ability to fully work with our allies and partners in the South China Sea region. If we are not party to UNCLOS, it is difficult for the United States to rely on the treaty to determine the legal entitlements of mid-ocean features, which claims are lawful,

²²⁵ John Norton Moore and William L. Schachte Jr., “The Senate Should Give Immediate Advice and Consent to the UN Convention on the Law of the Sea: Why the Critics Are Wrong,” *Journal of International Affairs* 59, no. 1 (Fall 2005): 1.

and what exactly constitutes the high seas.”²²⁶ Combatting gray zone tactics and the ambiguity imposed by maritime militias requires collective action.

In terms of altering China’s maritime behavior, Fuchs and Sutton state that joining UNCLOS would, at the very least, “deprive Beijing of its talking point that U.S. exhortations to claimant states to comply with UNCLOS amount to ‘hypocrisy.’”²²⁷ Joining UNCLOS is not a panacea that will resolve the South China Sea disputes or displace the presence of maritime proxy forces, but it can be an essential first step in signaling U.S. commitment to our partners and allies in the region. Moore and Schachte add that “adhering to the convention will finally give the United States an opportunity to officially declare its views as to the correct operation of convention provisions.”²²⁸ Ratifying UNCLOS could give the United States a powerful component with which to reinforce partners and allies, safeguarding against Chinese assertiveness.

4. Evolve U.S. Military Tactics, Training, and Procedures – For the Gray 21st Century

U.S. military leadership should rapidly advance the doctrinal revision timelines in order to reflect gray zone coercion as a threat to national security. The military is one of the most critical elements of the gray zone fight. It is mission critical that leaders up and down the chain of command understand that in the era of Great Power competition the battle for influence and authority will most likely be won below the threshold of war. However, this paradigm shift must not be limited to the military and should be undertaken by all levels of government authority, from the Joint Force to the interagency. This idea is captured in the 2018 Joint Concept of Integrated Campaigning (JCIC) released by the Joint Chiefs of Staff, which states that

²²⁶ Ben Cardin, “The South China Sea Is the Reason the United States Must Ratify UNCLOS,” *Foreign Policy*, July 13, 2016, <https://foreignpolicy.com/2016/07/13/the-south-china-sea-is-the-reason-the-united-states-must-ratify-unclos/>.

²²⁷ Michael Fuchs and Trevor Sutton, “UNCLOS Won’t Help America in the South China Sea: But Washington Should Join Anyway,” *National Interest*, August 3, 2016, <https://nationalinterest.org/feature/unclos-wont-help-america-the-south-china-sea-17235>.

²²⁸ Moore and Schachte Jr., “Critics Are Wrong,” 2.

That operating environment presents the Department of Defense (DoD) with a difficult military challenge: develop a methodology, with associated capabilities, that enables the Joint Force to collaborate and synchronize with interorganizational partners and conduct globally integrated operations to achieve acceptable and sustainable outcomes. Furthermore, any solution to the military challenge must account for several additional factors: the complexity of the environment; interactions with adaptive adversaries; the persistence of enduring competitions; transregional challenges; emerging patterns of competitions below the threshold of armed combat; and the challenge of integrating military activities within the DoD and aligning those activities with interorganizational partners.²²⁹

The JCIC is an essential first step in evolving military strategy in the 21st century. Military leaders must adopt the principles and the framework identified in the JCIC to evolve existing doctrine to meet the ambiguous, incremental, and asymmetric challenges of the gray zone.

The U.S. Navy's 2018 Design for Maintaining Maritime Superiority 2.0 echoes the conclusion that the military must rapidly adapt to threats of the 21st century, stating it "has been decades since we last competed for sea control, sea lines of communication, access to world markets, and diplomatic partnerships. Much has changed since we last competed. We will adapt to this reality and respond with urgency."²³⁰ The Design adds that the U.S. Navy will "aggressively compete" with revisionists states that seek to reorder the world in their image, and that competition will take place in a world where disputes rarely rise to conflict.²³¹ The JCIC and the Design for Maintaining Maritime Superiority 2.0 are affirmations that senior military leaders recognize the threat of gray zone coercion. However, these documents must be turned into TTPs and SOPs that give on-scene commanders the necessary authority to respond with the requisite force to prevent China's maritime militias from impeding U.S. and partner-nation operations in the South China Sea.

²²⁹ Joint Chiefs of Staff, *Doctrine for the Armed Forces of the United States*, Joint Concept of Integrated Campaigning (Washington, DC: Joint Chiefs of Staff, 2018), V. https://www.jcs.mil/Portals/36/Documents/Doctrine/concepts/joint_concept_integrated_campaign.pdf?ver=2018-03-28-102833-257.

²³⁰ Chief of Naval Operations Adm. John Richardson, "A Design for Maintaining Maritime Superiority, Version 2.0" (Washington, DC: United States Navy, December 2018), 3. https://www.navy.mil/navydata/people/cno/Richardson/Resource/Design_2.0.pdf.

²³¹ Richardson, 3.

One key institutional shift would be to more wholly integrate U.S. Coast Guard (USCG) with USN units. Lyle Morris asserts that “states now desire greater coast guard-naval cooperation to address such [gray zone] actions, especially near disputed territory where policy-makers seek to contain the challenge using law enforcement, not military means.”²³² Routinizing these sorts of interactions would help enable greater flexibility and presence in disputed areas of the maritime domain, directly challenging PRC presence. An example of increasing USN-USCG integration occurred in January 2019 with the deployment of the USCG National Security Cutter (NSC) Bertholf (WMSL-750) to the INDO-PACOM theater of operations to support “professional exchanges and capacity building with partner nations.”²³³ However, Morris contends that “while strategic and policy coordination between Navy and Coast Guards exist ... the current level of tactical interoperability between the two services is inadequate to effectively operate within the gray zone environment.”²³⁴ Thus, leaders must develop the necessary organizational authorities that enable maritime force integration across departmental lines of separation.

²³² Lyle J. Morris, “Crossing Interagency Lines: Enhancing Navy-Coast Guard Cooperation to Combat Gray Zone Conflicts of East Asia,” *Asia-Pacific Journal of Ocean Law and Policy* 3, no. 2 (2018): 274, <https://doi.org/doi:10.1163/24519391-00302006>.

²³³ NavalToday.com, “US Coast Guard NSC Deploys to Western Pacific,” Naval Today, January 24, 2019, <https://navaltoday.com/2019/01/24/us-coast-guard-nsc-deploys-to-western-pacific/>.

²³⁴ Morris, “Crossing Interagency Lines,” 300.

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